1987

SESSION LAWS

OF THE

STATE OF WASHINGTON

2nd EXTRAORDINARY SESSION
FIFTIETH LEGISLATURE
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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 permanent bound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating code sections affected.

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

(c) *Permanent bound edition — when and how obtained — price.* The permanent bound edition of the 1988 session laws (also containing laws of the 1987 2nd and 3rd extraordinary sessions) may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 at $21.56 per volume ($20.00 plus $1.56 for state and local sales tax of 7.8%). All orders must be accompanied by payment.

2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

(i) underlined matter is new matter.

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

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

3. PARTIAL VETOES

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

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

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die.

(b) Laws which carry an emergency clause take effect immediately upon approval by the Governor. All Laws of the 1987 2nd and 3rd extraordinary sessions contained an emergency clause.

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

6. INDEX AND TABLES

A cumulative index and tables of the laws of the 1987 2nd and 3rd extraordinary sessions and all 1988 laws may be found at the back of this permanent bound edition.

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CHAPTER 1

[House Bill No. 1260]

MINIMUM WAGES FOR CERTAIN NURSING HOME EMPLOYEES

AN ACT Relating to minimum wages for low wage earner nursing home employees; amending RCW 74.46.430; amending section 207, chapter 7, Laws of 1987 1st ex. sess. (uncodified); and declaring an emergency.

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

Sec. 1. Section 207, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES——LONG-TERM CARE SERVICES

General Fund Appropriation——State..... $ ((~~326,546,000~~)) 327,946,000

General Fund Appropriation——Federal..... $ ((~~331,586,000~~)) 333,186,000

Total Appropriation..... $ ((~~658,132,000~~)) 661,132,000

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) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988, for the adult residential care, contracted chore, adult day health, and senior citizens services act programs.

(3) $3,000,000 of which $1,400,000 is from the general fund——state appropriation is provided solely for nonadministrative wages and benefits enhancements above the money necessary to fund the minimum wage.

(4) Department-contracted nursing homes shall provide for and assure payment of compensation for staff of no less than $4.76 per hour beginning January 1, 1988, and $5.15 per hour beginning January 1, 1989.

((~~(4)~~)) (5) Nursing home rates shall be adjusted for inflation under RCW 74.46.495 by 3.7 percent on July 1, 1987 and 3.6 percent on July 1, 1988.

((~~(5)~~)) (6) $650,000, of which $312,000 is from the general fund——state appropriation, is provided solely for laundry services to state clients residing in skilled nursing facilities and intermediate care facilities.

((~~(6)~~)) (7) Grant payment standards shall be increased by 2.0 percent on September 1, 1987 and 4.0 percent on September 1, 1989, for adult residential care clients.

((~~(7)~~)) (8) $1,090,000 of the general fund——state appropriation is provided solely for the respite care demonstration project.

((~~(8)~~)) (9) At least $14,766,000 of 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.

Sec. 2. Section 43, chapter 177, Laws of 1980 as last amended by section 2, chapter 476, Laws of 1987 and RCW 74.46.430 are each amended to read as follows:

(1) The department, as provided by this chapter, will determine prospective cost-related reimbursement rates for services provided to medical care recipients. Each rate so determined shall represent the contractor's maximum compensation within each cost center for each patient day for such medical care recipient.

(2) As required, the department may modify such maximum per patient day rates pursuant to the administrative review provisions of RCW 74.46.780.

(3) Until the effective date of RCW 74.46.510 and 74.46.530, the maximum prospective reimbursement rates for the administration and operations and the property cost centers shall be established based upon a minimum facility occupancy level of eighty-five percent.

(4) On and after the effective date of RCW 74.46.510 and 74.46.530, the maximum prospective reimbursement rates for the administration and operations and the property cost centers and the return on investment allowance shall be established based upon a minimum facility occupancy level of eighty-five percent.

(5) All contractors shall be required to adjust and maintain wages for all employees to a minimum hourly wage established by the legislature in the biennial appropriations act, if the legislature appropriates moneys to fund prospectively the portion of the minimum wage attributable to services to medicaid patients. Prospective rate revisions to fund any minimum wage increases shall be made only on the dates authorized in the appropriation act. ((~~A portion of this legislative appropriation shall be used to enhance nonadministrative wages and benefits above the moneys necessary to fund the minimum wage specified in this section.~~)) The department shall by regulation limit reimbursement to the amount appropriated for legislatively authorized enhancement for nonadministrative wages and benefits above the moneys necessary to fund minimum wages specified in this section. The department in considering reimbursement for legislatively authorized wage

enhancements will take into consideration facility wage history over the past three cost report periods.

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 August 10, 1987.
Passed the Senate August 10, 1987.
Approved by the Governor August 11, 1987.
Filed in Office of Secretary of State August 11, 1987.

CHAPTER 2

[House Bill No. 1261]

CHORE SERVICES AND COMMUNITY OPTIONS PROGRAM ENTRY SYSTEM FUNDING

AN ACT Relating to long term care; amending section 207, chapter 7, Laws of 1987 1st ex. sess. (uncodified); and declaring an emergency.

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

Sec. 1. Section 207, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES——LONG-TERM CARE SERVICES

General Fund Appropriation——State	$	((~~326,546,000~~)) 329,546,000
General Fund Appropriation——Federal	$	((~~331,586,000~~)) 333,086,000
Total Appropriation	$	((~~658,132,000~~)) 662,632,000

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) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988, for the adult residential care, contracted chore, adult day health, and senior citizens services act programs.

(3) $3,000,000 of the general fund——state appropriation, and $1,500,000 of the general fund——federal appropriation, are provided solely to increase the number of persons served in the chore services program

and the community options program entry system (COPES). To the extent possible, the department shall maximize use of the community options program entry system for all new clients requiring chore or personal care services.

(4) Nursing home rates shall be adjusted for inflation under RCW 74-.46.495 by 3.7 percent on July 1, 1987 and 3.6 percent on July 1, 1988.

(5) $650,000, of which $312,000 is from the general fund——state appropriation, is provided solely for laundry services to state clients residing in skilled nursing facilities and intermediate care facilities.

(6) Grant payment standards shall be increased by 2.0 percent on September 1, 1987 and 4.0 percent on September 1, 1989, for adult residential care clients.

(7) $1,090,000 of the general fund——state appropriation is provided solely for the respite care demonstration project.

(8) At least $14,766,000 of 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.

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 August 10, 1987.
Passed the Senate August 10, 1987.
Approved by the Governor August 11, 1987.
Filed in Office of Secretary of State August 11, 1987.

CHAPTER 3

[Senate Bill No. 6078]

BUSINESS AND OCCUPATION TAX—MULTIPLE ACTIVITIES—TAX CREDITS

AN ACT Relating to business and occupation taxation of multiple activities; amending RCW 82.04.440; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the invalidation of the multiple activities exemption contained in RCW 82.04.440 by the United States Supreme Court now requires adjustments to the state's business and occupation tax to achieve constitutional equality between Washington taxpayers who have conducted and will continue to conduct business in interstate and intrastate commerce. It is the intent of this act to preserve the integrity of Washington's business and occupation tax system and impose

only that financial burden upon the state necessary to establish parity in taxation between such taxpayers.

Thus, this act extends the system of credits originated in RCW 82.04-.440 in 1985 to provide for equal treatment of taxpayers engaging in extracting, manufacturing or selling regardless of the location in which any of such activities occurs. It is further intended that RCW 82.04.440, as amended by section 2 of this act, shall be construed and applied in a manner that will eliminate unconstitutional discrimination between taxpayers and ensure the preservation and collection of revenues from the conduct of multiple activities in which taxpayers in this state may engage.

Sec. 2. Section 82.04.440, chapter 15, Laws of 1961 as last amended by section 1, chapter 190, Laws of 1985 and RCW 82.04.440 are each amended to read as follows:

(1) ((~~Except as provided in subsections (2) and (3) of this section,~~)) Every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.290, inclusive, shall be taxable under each paragraph applicable to the activities engaged in.

(2) Persons taxable under RCW 82.04.250 or 82.04.270 shall ((~~not be taxable under RCW 82.04.230, 82.04.240, or subsection (2), (3), (4), (5), or (7) of RCW 82.04.260 with respect to extracting or manufacturing of the products so sold~~)) be allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable under RCW 82.04.240 or 82.04.260 subsection (4) shall ((~~not be taxable under RCW 82.04.230~~)) be allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4)(((~~(a) If it is determined by a court of competent jurisdiction, in a judgment not subject to review, that subsection (2) of this section results in an unconstitutional discrimination against interstate or foreign commerce, and that relief is appropriate for any tax reporting periods either before or after April 30, 1985, it is the intent of the legislature that the credit provided in (b) of this subsection shall be applied to such reporting periods and that relief for such periods be limited to the granting of such credit. It is further the intent of the legislature that such credit shall be applicable only under the conditions and to the extent provided in this subsection (4).~~

~~(b) As provided in (a) of this subsection,~~)) Persons taxable under RCW 82.04.230, 82.04.240, or subsection (2), (3), (4), (5), or (7) of RCW 82.04.260 with respect to extracting or manufacturing products in this state shall be allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(((~~c~~))) (5) For the purpose of this ((~~subsection,~~)) section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(((~~d) For the purpose of this subsection,~~)) (b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision ((~~thereof, or~~)) of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240 and subsections (2), (3), (4), (5), and (7) of RCW 82.04.260, and (ii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes the tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to other states.

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

NEW SECTION. Sec. 3. If it is determined by a court of competent jurisdiction, in a judgment not subject to review, that relief is appropriate for any tax reporting periods before the effective date of this act, in respect to RCW 82.04.440 as it existed before the effective date of this act, it is the intent of the legislature that the credits provided in RCW 82.04.440 as amended by section 2 of this act shall be applied to such reporting periods and that relief for such periods be limited to the granting of such credits.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate August 10, 1987.
Passed the House August 10, 1987.
Approved by the Governor August 11, 1987.
Filed in Office of Secretary of State August 11, 1987.

CHAPTER 4

[Senate Bill No. 6084]

CORPORATIONS—HOSTILE OR UNFRIENDLY ATTEMPTS TO GAIN CONTROL

AN ACT Relating to corporations; amending RCW 23A.32.010; adding a new section to chapter 23A.28 RCW; adding a new section to chapter 23A.32 RCW; adding a new chapter to Title 23A RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) Corporations that offer employment and health, retirement, and other benefits to a large number of citizens of the state of Washington are vital to the economy of this state and the well-being of all of its citizens;

(2) The welfare of the employees of these corporations is of paramount interest and concern to this state;

(3) Many businesses in this state rely on these corporations to purchase goods and services;

(4) Hostile or unfriendly attempts to gain control of or influence otherwise publicly held corporations can cause corporate management to dissipate a corporation's assets in an effort to resist the takeover by selling or distributing cash or assets, redeeming stock, or taking other steps to increase the short-term gain to shareholders and to dissipate energies required for strategic planning, market development, capital investment decisions, assessment of technologies, and evaluation of competitive challenges that can damage the long-term interests of shareholders and the economic health of the state by reducing or eliminating the ability to finance investments in research and development, new products, facilities and equipment, and by undermining the planning process for those purposes;

(5) Hostile or unfriendly attempts to gain control or influence otherwise publicly held corporations are often highly leveraged pursuant to financing arrangements which assume that an acquirer will promptly obtain

access to an acquired corporation's cash or assets and use them, or the proceeds of their sale, to repay acquisition indebtedness;

(6) Hostile or unfriendly attempts to gain control of or influence otherwise publicly held corporations can harm the economy of the state by weakening corporate performance, and causing unemployment, plant closings, reduced charitable donations, declining population base, reduced income to fee-supported local government services, reduced tax base, and reduced income to other businesses; and

(7) The state has a substantial and legitimate interest in regulating domestic and foreign corporations that have their most significant business contacts with this state and in regulating hostile or unfriendly attempts to gain control of or influence otherwise publicly held corporations that employ a large number of citizens of the state, pay significant taxes, and have a substantial economic base in the state.

The legislature intends this chapter (sections 2 through 5 and 10 of this act) to balance the substantial and legitimate interests of the state in corporations that employ a large number of citizens of the state and that have a substantial economic base in the state with: The interests of citizens of other states who own shares of such corporations; the interests of the state of incorporation of such corporations in regulating the internal affairs of corporations incorporated in that state; and the interests of promoting interstate commerce. To this effect, the legislature intends to regulate certain transactions between publicly held corporations and acquiring persons that will tend to harm the long-term health of corporations that have their principal executive office and a majority of their assets in this state and that employ a large number of citizens of this state.

(8) This section shall expire December 31, 1988.

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

(1) "Acquiring person" means a person or group of persons, other than the target corporation or a subsidiary of the target corporation, who beneficially owns ten percent or more of the outstanding voting shares of the target corporation. An agent, bank, broker, nominee, or trustee for another person (if the other person is not an acquiring person) who acts in good faith and not for the purpose of circumventing this chapter, is not an acquiring person;

(2) "Affiliate" means a person who directly or indirectly controls, or is controlled by, or is under common control with, a person.

(3) "Associate" means (a) a domestic or foreign corporation or organization of which a person is an officer, director, or partner or in which a person performs a similar function; (b) a direct or indirect beneficial owner of ten percent or more of any class of equity securities of a person; (c) a trust or estate in which a person has a beneficial interest or as to which a person serves as trustee or in a similar fiduciary capacity; and (d) if having

the same residence as a person, the person's relative, spouse, or spouse's relative.

(4) "Beneficial ownership," when used with respect to any shares, means ownership by a person:

(a) Who, individually or with or through any of its affiliates or associates, beneficially owns such shares, directly or indirectly; or

(b) Who, individually or with or through any of its affiliates or associates, has (i) the right to acquire the shares, whether the right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement, or understanding, whether or not in writing, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise. A person is not the beneficial owner of shares tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares are accepted for purchase or exchange; or (ii) the right to vote the shares pursuant to any agreement, arrangement, or understanding, whether or not in writing. A person is not the beneficial owner of any shares under subsection (4)(b)(ii) of this section if the agreement, arrangement, or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the exchange act and is not then reportable on a schedule 13D under the exchange act, or any comparable or successor report; or

(c) Who has any agreement, arrangement, or understanding, whether or not in writing, for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in (b)(ii) of this subsection), or disposing of the shares with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.

(5) "Control," "controlling," "controlled by," and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. A person's beneficial ownership of ten percent or more of a domestic or foreign corporation's outstanding voting shares shall create a presumption that such person has control of such corporation. However, a person does not have control of a domestic or foreign corporation if the person holds voting shares, in good faith and not for the purpose of circumventing this chapter, as an agent, bank, broker, nominee, custodian, or trustee for one or more beneficial owners who do not individually or as a group have control of such corporation.

(6) "Exchange act" means the federal securities exchange act of 1934, as amended.

(7) "Market value," in the case of property other than cash or shares, means the fair market value of the property on the date in question as determined by the board of directors of the target corporation in good faith.

(8) "Person" means an individual, domestic or foreign corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

(9) "Significant business transaction" means:

(a) A merger or consolidation of a target corporation or a subsidiary of a target corporation with (i) an acquiring person or (ii) any other domestic or foreign corporation which is, or after the merger or consolidation would be, an affiliate or associate of the acquiring person;

(b) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition or encumbrance, whether in one transaction or a series of transactions, to or with an acquiring person or an affiliate or associate of an acquiring person of assets of a target corporation or a subsidiary of a target corporation (i) having an aggregate market value equal to five percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the target corporation, (ii) having an aggregate market value equal to five percent or more of the aggregate market value of all the outstanding shares of the target corporation, or (iii) representing five percent or more of the earning power or net income, determined on a consolidated basis, of the target corporation;

(c) The termination, whether at one time or over a period of time, of five percent or more of the employees of the target corporation and/or its subsidiaries employed in this state after the acquiring person's share acquisition date, unless the target corporation demonstrates by clear and convincing evidence that the termination of employees is not due to the acquiring person's acquisition of ten percent or more of the shares of the corporation;

(d) The issuance, transfer, or redemption by a target corporation or a subsidiary of a target corporation, whether in one transaction or a series of transactions, of shares or of options, warrants, or rights to acquire shares of a target corporation or a subsidiary of a target corporation to or beneficially owned by an acquiring person or an affiliate or associate of an acquiring person except pursuant to the exercise of warrants or rights to purchase shares offered, or a dividend, distribution, or redemption paid or made pro rata to, all shareholders or holders of options, warrants, or rights to acquire shares of the target corporation, and except for involuntary redemptions permitted by the target corporation's charter or by the law of this state or the state of incorporation;

(d) The adoption of a plan or proposal for the sale of assets, liquidation, or dissolution of a target corporation proposed by, or pursuant to an

agreement, arrangement, or understanding, whether or not in writing, with an acquiring person or an affiliate or associate of an acquiring person;

(e) A reclassification of securities, including, without limitation, any stock split, stock dividend, or other distribution of stock in respect of stock, or any reverse stock split, or recapitalization of a target corporation, or a merger or consolidation of a target corporation with a subsidiary of the target corporation, or any other transaction, whether or not with or into or otherwise involving an acquiring person, proposed by, or pursuant to an agreement, arrangement, or understanding, whether or not in writing, with an acquiring person or an affiliate or associate of an acquiring person, that has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of a class or series of voting shares or securities convertible into voting shares of a target corporation or a subsidiary of the target corporation that is directly or indirectly owned by an acquiring person or an affiliate or associate of an acquiring person, except as a result of immaterial changes due to fractional share adjustments;

(f) A receipt by an acquiring person or an affiliate or associate of an acquiring person of the benefit, directly or indirectly, except proportionately as a shareholder of a target corporation, of loans, advances, guarantees, pledges, or other financial assistance or tax credits or other tax advantages provided by or through a target corporation; or

(g) An agreement, contract, or other arrangement providing for any of the transactions in this subsection.

(10) "Share acquisition date" means the date on which a person first becomes an acquiring person of a target corporation.

(11) "Subsidiary" means a domestic or foreign corporation that has a majority of its outstanding voting shares owned, directly or indirectly, by another domestic or foreign corporation.

(12) "Target corporation" means every domestic corporation organized under chapter 23A.12 RCW or any predecessor provision and every foreign corporation required to have a certificate of authority to transact business in this state pursuant to chapter 23A.32 RCW, if, as of the share acquisition date:

(a) The assessed valuation of the domestic or foreign corporation's and its subsidiaries' personal and real property in the state for purposes of computing state and local property taxes in the state exceeds the aggregate assessed valuation of its personal and real property in all other states for purposes of computing state and local property taxes in such states;

(b) The domestic or foreign corporation's principal executive office is located in the state;

(c) A majority of the domestic or foreign corporation's and its subsidiaries' employees are residents of the state;

(d) A majority of the domestic or foreign corporation's and its subsidiaries' tangible assets, measured by market value, are located in the state;

(e) The domestic or foreign corporation and its subsidiaries employ more than twenty thousand residents of the state; and

(f) The domestic or foreign corporation and its subsidiaries have: (i) More than ten percent of its shareholders of record resident in the state; or (ii) more than ten percent of its shares owned of record by state residents; or (iii) five thousand or more shareholders of record resident in the state.

For purposes of this subsection, the record date for determining the percentages and numbers of shareholders and shares shall be the last shareholder record date before the event requiring that the determination be made. A shareholder record date shall be determined pursuant to RCW 23A.08.270 for a domestic corporation and the comparable provision of the law of the state in which a foreign corporation is incorporated. If a shareholder record date has not been fixed by the board of directors within the preceding four months, the determination shall be made as of the end of the domestic or foreign corporation's most recent fiscal quarter.

The residence of each shareholder is presumed to be the address appearing in the records of the domestic or foreign corporation. Shares held of record by brokers or nominees shall be disregarded for purposes of calculating the percentages and numbers specified in this subsection. Shares of a domestic or foreign corporation allocated to the account of an employee or former employee or beneficiaries of employees or former employees of a domestic or foreign corporation and held in a plan that is qualified under section 401(a) of the federal internal revenue code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of the code shall be deemed, for the purposes of this subsection, to be held of record by the employee to whose account such shares are allocated.

A domestic or foreign corporation shall be deemed to be a target corporation if the domestic or foreign corporation's failure to satisfy the requirements of this subsection is caused by the action of, or is the result of a proposal by, an acquiring person or affiliate or associate of an acquiring person.

NEW SECTION. Sec. 3. This chapter does not apply:

(1) To a significant business transaction of a target corporation that does not have a class of voting stock registered with the securities and exchange commission pursuant to section 12 of the exchange act; or

(2) To a significant business transaction of a target corporation with an acquiring person of the target corporation which became an acquiring person inadvertently, if the acquiring person (a) as soon as practicable, divests itself of a sufficient amount of the voting shares of the target corporation so that it no longer is the beneficial owner, directly or indirectly, of ten percent or more of the outstanding voting shares of the target corporation, and (b) would not at any time within the five-year period preceding the date of the first public announcement of the significant business transaction have been an acquiring person but for the inadvertent acquisition.

NEW SECTION. Sec. 4. (1) (a) Notwithstanding any provision of chapter 23A.08 RCW, a target corporation shall not engage in any significant business transaction for a period of five years following the acquiring person's share acquisition date unless the significant business transaction or the purchase of shares made by the acquiring person on the share acquisition date is approved prior to the acquiring person's share acquisition date by a majority of the members of the board of directors of the target corporation.

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

(2) A target corporation that engages in a significant business transaction that violates subsection (1) of this section and that is not exempt under section 3 of this act shall have its certificate of incorporation or certificate of authority to transact business in this state revoked pursuant to RCW 23A-.28.125 or 23A.32.160 for domestic or foreign target corporations, respectively. In addition, such significant business transaction shall be void.

NEW SECTION. Sec. 5. The requirements imposed by this chapter are to be in addition to, and not in lieu of, requirements imposed on a transaction by any provision in the articles of incorporation or the bylaws of the target corporation, or otherwise.

NEW SECTION. Sec. 6. A new section is added to chapter 23A.28 RCW to read as follows:

(1) If a corporation engages in activity in violation of chapter 23A.— RCW (sections 2 through 5 and 10 of this act), then the secretary of state shall revoke the corporation's certificate of incorporation pursuant to the procedures in RCW 23A.28.125.

(2) This section shall expire on December 31, 1988.

NEW SECTION. Sec. 7. A new section is added to chapter 23A.32 RCW to read as follows:

(1) If a corporation engages in activity in violation of chapter 23A.— RCW (sections 2 through 5 and 10 of this act), then the secretary of state shall revoke the corporation's certificate of authority pursuant to the procedures in RCW 23A.32.160.

(2) This section shall expire on December 31, 1988.

Sec. 8. Section 109, chapter 53, Laws of 1965 as amended by section 46, chapter 16, Laws of 1979 and RCW 23A.32.010 are each amended to read as follows:

No foreign corporation shall have the right to transact business 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 title to transact in this state any business which a corporation organized under this title is not permitted to transact. 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~~)). Until December 31, 1988, except as provided in chapter 23A.— RCW (sections 2 through 5 and 10 of this 1987 act), nothing in this title 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 transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of this title, by reason of carrying on in this state any one or more of the following activities:

(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 shareholders or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities.

(5) Effecting sales through independent contractors.

(6) 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.

(7) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property.

(8) Securing or collecting debts or enforcing any rights in property securing the same.

(9) Transacting any business in interstate commerce.

(10) 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.

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. (1) This chapter shall expire on December 31, 1988.

(2) This chapter does not apply to any significant business transaction of a target corporation with, with respect to, proposed by or on behalf of, or pursuant to any agreement, arrangement, or understanding, whether or not in writing, with any acquiring person, affiliate, or associate of the acquiring person, if the acquiring person, affiliate, or associate of the acquiring person's share acquisition date is on or after December 31, 1988.

NEW SECTION. Sec. 11. Sections 2 through 5 and 10 of this act shall constitute a new chapter in Title 23A RCW.

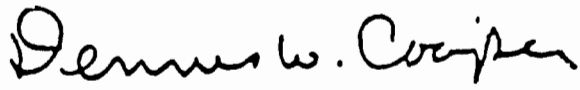
NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate August 10, 1987.
Passed the House August 10, 1987.
Approved by the Governor August 11, 1987.
Filed in Office of Secretary of State August 11, 1987.

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 1987 second extraordinary session, chapers 1 through 4, (50th 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 14th day of September, 1987.



DENNIS W. COOPER
Code Reviser

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1987

SESSION LAWS

OF THE

STATE OF WASHINGTON

3rd EXTRAORDINARY SESSION
FIFTIETH LEGISLATURE
Convened October 10, 1987. Adjourned October 10, 1987.

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

DENNIS W. COOPER
Code Reviser

WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVAILABLE.

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

(i) a temporary pamphlet edition consisting of a series of one or more paper bound pamphlets, which are published as soon as possible following the session, at random dates as accumulated; followed by

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

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

(c) *Permanent bound edition — when and how obtained — price.* The permanent bound edition of the 1988 session laws (also containing laws of the 1987 2nd and 3rd extraordinary sessions) may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 at $21.56 per volume ($20.00 plus $1.56 for state and local sales tax of 7.8%). All orders must be accompanied by payment.

2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

(i) underlined matter is new matter.

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

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

3. PARTIAL VETOES

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

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

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die.

(b) Laws which carry an emergency clause take effect immediately upon approval by the Governor. All Laws of the 1987 2nd and 3rd extraordinary sessions contained an emergency clause.

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

6. INDEX AND TABLES

A cumulative index and tables of the laws of the 1987 2nd and 3rd extraordinary sessions and all 1988 laws may be found at the back of this permanent bound edition.

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CHAPTER 1

[House Bill No. 1264]
TEACHERS' SALARIES

AN ACT Relating to salary increases for certificated instructional employees; amending RCW 28A.41.—; amending section 503, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 504, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 505, chapter 7, Laws of 1987 1st ex. sess. (uncodified); and declaring an emergency.

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

Sec. 1. Section 503, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR GENERAL APPORTIONMENT (BASIC EDUCATION)

General Fund Appropriation ..... $((~~3,805,863,000~~)) 3,814,863,000

Revenue Accrual Account Appropriation ..... $ 55,100,000

Total Appropriation ..... $((~~3,860,963,000~~)) 3,869,963,000

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

(1) $367,786,000 is provided solely for the remaining months of the 1986–87 school year.

(2) Allocations for certificated staff salaries for the 1987–88 and 1988–89 school years shall be determined by multiplying each district's average basic education certificated instructional and administrative salaries as determined under section 504 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, by the districts' formula–generated staff units as follows:

(a) On the basis of average annual full time equivalent enrollments, excluding handicapped full time equivalent enrollment as recognized for funding purposes under section 507 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., and excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (i) of this subsection:

(i) Forty–six certificated instructional staff units for each one thousand full time equivalent kindergarten through twelfth grade students.

(ii) Four certificated administrative staff units for each one thousand full time equivalent kindergarten through twelfth grade students.

(b)(i) For the 1987–88 school year, an additional two certificated instructional staff units for each one thousand average annual full time equivalent students in kindergarten through third grade.

(ii) For the 1988–89 school year, an additional three certificated instructional staff units for each one thousand average annual full time equivalent students in kindergarten through third grade.

(c) For school districts with a minimum enrollment of 250 full time equivalent students, whose full time equivalent student enrollment count in a given month exceeds the first of the month full time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month.

(d) 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each seventeen and one–half full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction. However, for skill center programs, the ratio shall be 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each annual average 16.67 full time equivalent students enrolled in an approved vocational education program.

(e) For districts enrolling not more than twenty–five average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll not more than twenty–five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education:

(i) For those enrolling no students in grades seven or eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one–twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in either grades seven or eight, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one–tenth of a certificated instructional staff unit for each additional student enrolled.

(f) For districts enrolling more than twenty–five but not more than one hundred average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll more than twenty–five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education, in the following cases:

(i) For districts and small school plants with enrollments of up to sixty annual average full time equivalent students in kindergarten through grade six, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units;

(ii) For districts and small school plants with enrollments of up to twenty annual average full time equivalent students in grades seven and

eight, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full time equivalent students and less than one hundred eighty students, operating a grades K–8 program or a grades 1–8 program, an additional one-half of a certificated instructional staff unit.

(h) For each nonhigh school district having an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, operating a grades K–6 program or a grades 1–6 program, an additional one-half of a certificated instructional staff unit.

(i) For districts that operate no more than two high schools with enrollments of not more than three hundred average annual full time equivalent students, for enrollments in each such high school, excluding handicapped and vocational full time equivalent enrollments:

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

(ii) Additional certificated staff units based upon a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per forty-three and one-half average annual full time equivalent students.

(3) Allocations for classified salaries for the 1987–88 and 1988–89 school years shall be calculated by multiplying each district's average basic education classified salary allocation as determined under section 504(2) ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess, as amended, by the district's formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsections (2) (e) through (i) of this section, one classified staff unit per each three certificated staff units allocated under such subsections.

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 19.41 percent in the 1987–88 school year and 19.53 percent in the 1987–88 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 17.00 percent in the 1987–88 school year and 17.12 percent in the 1988–89 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations for the 1987–88 and 1988–89 school years shall be calculated at a rate of $167 per month for the number of

certificated staff units determined in subsection (2) of this section and for the number of classified staff units determined in subsection (3) of this section multiplied by 1.152.

(6)(a) For nonemployee related costs with each certificated staff unit allocated under subsections (2) (a), (b), (c), and (e) through (i) of this section, there shall be provided a maximum of $5,973 per certificated staff unit in the 1987–88 school year and a maximum of $6,188 per certificated staff unit in the 1988–89 school year.

(b) For nonemployee related costs with each certificated staff unit allocated under subsection (2)(d) of this section, there shall be provided a maximum of $11,382 per certificated staff unit in the 1987–88 school year and a maximum of $11,792 per certificated staff unit in the 1988–89 school year.

(7) Allocations for costs of substitutes for classroom teachers shall be distributed at a maximum rate of $275 per full time equivalent basic education classroom teacher during the 1987–88 and 1988–89 school years.

(8) The superintendent may distribute a maximum of $3,209,000 outside the basic education formula during fiscal years 1988 and 1989 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of $342,000 may be expended in fiscal year 1988 and a maximum of $342,000 in fiscal year 1989.

(b) For summer vocational programs at skills centers, a maximum of $1,099,000 may be expended in fiscal year 1988 and a maximum of $1,135,000 may be expended in fiscal year 1989.

(c) A maximum of $272,000 may be expended for school district emergencies.

(9) Formula enhancements are provided under this section which are not attributable to enrollment or workload changes, compensation increases, or inflationary adjustments. For the purposes of section 101 ((~~of Engrossed Second Substitute House Bill No. 455~~)), chapter 2, Laws of 1987 1st ex. sess., the following allocations for the 1987–88 school year shall be recognized as levy reduction funds:

(a) For certificated instructional staff units generated under subsection (2)(b)(i) of this section, all allocations for nonemployee-related costs and one-half of all allocations for certificated salaries and benefits.

(b) For certificated instructional staff units generated under subsection (2)(b)(ii) of this section, one-third of all allocations including nonemployee-related costs and certificated staff salaries and benefits.

(10) For the purposes of section 101 ((~~of Engrossed Second Substitute House Bill No. 455~~)), chapter 2, Laws of 1987 1st ex. sess., the increase per full time equivalent student in the state basic education appropriation provided under this section is 2.75 percent between the 1986–87 and 1987–88

school years, and 3.52 percent between the 1987–88 and 1988–89 school years.

(11) The revenue accrual account appropriation is provided solely for allocations for employer contributions to the teachers' retirement system included under subsection (4) of this section.

(12) A maximum of $372,000 may be distributed to enhance funding provided in subsections (1) through (8) of this section for remote and necessary school plants on islands without scheduled public transportation which are the sole school plants serving students in elementary grades on these islands. Any school district receiving an allocation under this subsection must certify that funding distributed for its remote and necessary school plants under this subsection and subsection (2)(e) of this section is used solely for programs for students enrolled in these school plants. The superintendent of public instruction shall ensure compliance with this subsection, including appropriate distribution of school district overhead costs. The superintendent shall study and, in a report submitted to the legislature prior to December 1, 1988, make recommendations on adequate but not excessive funding formulas for remote and necessary school plants serving less than twenty-five students.

(13) The appropriations in this section include((~~s $110,343,000~~)) $119,343,000 allocated for compensation increases for basic education staff, as provided pursuant to section 504 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended.

Sec. 2. Section 504, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——BASIC EDUCATION EMPLOYEE COMPENSATION

For the purposes of section 503 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, and this section, the following conditions and limitations apply:

(1) (a) Districts shall certify to the superintendent of public instruction such information as may be necessary regarding the years of service and educational experience of basic education certificated instructional employees for the purposes of calculating certificated instructional staff salary allocations pursuant to this section. Any change in information previously certified, on the basis of additional years of experience or educational credits, shall be reported and certified to the superintendent of public instruction at the time such change takes place.

(b) For the purposes of subsection (2) of this section, "basic education certificated instructional staff" is defined as provided in section 203 ((~~of Engrossed Second Substitute House Bill No. 455~~)), chapter 2, Laws of 1987 1st ex. sess.

(c) "LEAP Document 1" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on August 18, 1987, at 13:26 hours.

(d) "LEAP Document 10" means the computerized tabulation of 1986-87 average salary allocations for basic education certificated administrative staff and basic education classified staff, as developed by the legislative evaluation and accountability program committee on May 11, 1987, at 11:06 hours.

(e) "LEAP Document 11" means the computerized tabulation of 1986-87 derived base salaries for basic education certificated instructional staff, as developed by the legislative evaluation and accountability program committee on August 19, 1987, at 10:29 hours.

(f) "Derived base salary" means a school district's average salary for basic education certificated instructional staff, divided by the district's average staff mix factor for such staff computed using LEAP Document 1.

(2)(a)(i) For the 1987-88 school year, average salary allocations for basic education certificated administrative staff under section 503 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's 1986-87 certificated administrative average salary shown on LEAP Document 10, increased by 2.1 percent of the 1986-87 LEAP Document 10 state-wide average salary for certificated administrative staff.

(ii) For the 1988-89 school year, average salary allocations for basic education certificated administrative staff under section 503 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's certificated administrative average salary allocation for the 1987-88 school year provided under this section, further increased by 2.14 percent of the 1986-87 LEAP Document 10 state-wide average salary.

(b)(i) For the 1987-88 school year, average salary allocations for basic education classified staff under section 503 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's 1986-87 classified average salary shown on LEAP Document 10, increased by 2.7 percent of the 1986-87 LEAP Document 10 state-wide average salary for classified staff.

(ii) For the 1988-89 school year, average salary allocations for basic education classified staff under section 503 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's classified average salary allocation for the 1987-88 school year provided under this section, further increased by 2.77 percent of the 1986-87 LEAP Document 10 state-wide average classified salary.

(c) Allocations for certificated instructional salaries in the 1987-88 school year under section 503(2) ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1987–88 state–wide salary allocation schedule established in subsection (3)(a) of this section; or

(ii) The district's actual average annual basic education certificated instructional staff salary for the 1986–87 school year, as reported to the superintendent of public instruction prior to June 1, 1987, improved by 2.1 percent; or

(iii) The district's 1986–87 derived base salary for basic education certificated instructional staff as shown on LEAP Document 11, multiplied by the district's average staff mix factor determined using LEAP Document 1 for 1987–88 basic education certificated instructional staff, and further increased by 2.1 percent.

(d) Allocations for certificated instructional salaries in the 1988–89 school year under section 503(2) ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1988–89 state–wide salary allocation schedule established in subsection (3)(b) of this section; or

(ii) For districts which received salary allocations for the 1987–88 school year under subsection (2)(c)(ii) or (iii) of this section, the ((~~average basic education certificated instructional staff salary allocated for that year~~)) district's actual 1987–88 derived base salary for basic education certificated instructional staff computed by the superintendent of public instruction using LEAP Document 1, multiplied by the district's average staff mix factor determined using LEAP Document 1 for 1988–89 basic education certificated instructional staff, and further increased by 2.1 percent.

(3) Pursuant to section 204 ((~~of Engrossed Second Substitute House Bill No. 455~~)), chapter 2, Laws of 1987 1st ex. sess., the following state–wide salary allocation schedules for certificated instructional staff, for allocation purposes only, are established:

(a) 1987–88 STATE–WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,050	17,510	17,988	18,465
1	17,681	18,158	18,653	19,164
2	18,329	18,823	19,335	19,897
3	19,011	19,522	20,051	20,648
4	19,710	20,255	20,801	21,432

1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
5	20,443	21,006	21,568	22,250
6	21,210	21,773	22,370	23,103
7	21,995	22,574	23,188	23,972
8	22,796	23,410	24,041	24,893
9		24,279	24,944	25,831
10			25,865	26,820
11				27,843
12				
13				
14 or more				

1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,000	20,989	20,000	21,210	22,250
1	20,750	21,756	20,750	21,995	23,069
2	21,517	22,557	21,517	22,813	23,921
3	22,301	23,393	22,301	23,648	24,808
4	23,137	24,262	23,137	24,518	25,728
5	23,989	25,166	23,989	25,439	26,666
6	24,876	26,087	24,876	26,376	27,655
7	25,797	27,058	25,797	27,348	28,678
8	26,751	28,064	26,751	28,354	29,752
9	27,740	29,104	27,740	29,411	30,843
10	28,763	30,179	28,763	30,502	31,986
11	29,838	31,287	29,838	31,628	33,162
12	30,946	32,446	30,946	32,804	34,390
13	32,088	33,640	32,088	34,015	35,669
14 or more		34,884	33,265	35,276	36,981

(b) 1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,600	18,075	18,568	19,061
1	18,251	18,744	19,254	19,782
2	18,920	19,430	19,958	20,539
3	19,624	20,152	20,698	21,314
4	20,346	20,909	21,472	22,123
5	21,102	21,683	22,264	22,968
6	21,894	22,475	23,091	23,848
7	22,704	23,302	23,936	24,746
8	23,531	24,165	24,816	25,696
9		25,062	25,749	26,664
10			26,699	27,685
11				28,741
12				
13				
14 or more				

1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,645	21,666	20,645	21,894	22,968
1	21,419	22,458	21,419	22,704	23,813
2	22,211	23,285	22,211	23,549	24,693
3	23,021	24,147	23,021	24,411	25,608
4	23,883	25,045	23,883	25,309	26,558
5	24,763	25,978	24,763	26,259	27,526
6	25,678	26,928	25,678	27,227	28,547
7	26,629	27,931	26,629	28,230	29,603
8	27,614	28,970	27,614	29,269	30,712
9	28,635	30,043	28,635	30,360	31,838
10	29,691	31,152	29,691	31,486	33,018
11	30,800	32,296	30,800	32,648	34,232
12	31,944	33,493	31,944	33,862	35,499
13	33,123	34,725	33,123	35,112	36,819
14 or more		36,010	34,338	36,414	38,174

(c) As used in this subsection:

(i) "BA" means a baccalaureate degree;

(ii) "MA" means a masters degree;

(iii) "PHD" means a doctorate degree;

(iv) "+(N)" means the number of college quarter hour credits earned since the highest degree.

Sec. 3. Section 505, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR MINIMUM SALARIES AND CATEGORICAL PROGRAM SALARY INCREASES

General Fund Appropriation ..... $ ((~~21,549,000~~)) 22,549,000

The appropriation in this section is subject to the following conditions and limitations:

(1) "Incremental fringe benefits" means 18.77 percent in the 1987–88 school year and 18.89 percent in the 1988–89 school year for certificated staff, and 13.47 percent in the 1987–88 school year and 13.59 percent in the 1988–89 school year for classified staff, which percentages shall be the fringe benefit rates applied to the respective salary adjustments provided in subsections (3) and (4) of this section.

(2) A maximum of $8,431,000 is provided to implement salary increases for each school year for state-supported school employees in the following categorical programs: Transitional bilingual instruction, learning assistance, education of highly capable students, vocational technical institutes, and pupil transportation. Moneys provided by this subsection include costs of incremental fringe benefits and shall be distributed by increasing allocation rates for each school year by the amounts specified:

(a) Transitional bilingual instruction: The rates specified in section 509 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess. shall be increased by $10.51 per pupil for the 1987–88 school year and by $21.60 per pupil for the 1988–89 school year.

(b) Learning assistance: The rates specified in section 510 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess. shall be increased by $9.15 per pupil for the 1987–88 school year and by $18.60 per pupil for the 1988–89 school year.

(c) Education of highly capable students: The rates specified in section 511 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess. shall be increased by $6.23 per pupil for the 1987–88 school year and by $12.84 per pupil for the 1988–89 school year.

(d) Vocational technical institutes: The rates for vocational programs specified in section 513 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess. shall be increased by $57.15 per full time equivalent student for the 1987–

88 school year, and by $117.45 per full time equivalent student for the 1988-89 school year.

(e) Pupil transportation: The rates provided under section 516 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess. shall be increased by $0.47 per weighted pupil-mile for the 1987-88 school year, and by $0.95 per weighted pupil-mile for the 1988-89 school year.

(3) A maximum of $13,118,000 is provided for salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program, section 507, and for state-supported staff in institutional education programs, section 508, and in educational service districts, section 502. The superintendent of public instruction shall distribute salary increases for these programs not to exceed the percentage salary increases provided for basic education staff under section 504 ((~~of this act~~)), chapter 7, Laws of 1987 1st ex. sess.

(4) A maximum of $1,000,000 is provided solely to implement minimum salaries, distributed as follows:

(a) For any certificated instructional employee in the 1987-88 school year, the superintendent of public instruction may allocate additional salary moneys equal to:

(i) The minimum salary required for the employee under RCW 28A-.58.—(2), (section 205(2), chapter 2, Laws of 1987 1st ex. sess.); minus

(ii) The salary that the school district would have paid to such an employee in the 1986-87 school year at the employee's 1987-88 level of experience and education, increased by the average percentage increase provided in the district's derived base salary for basic education certificated instructional staff under section 2 of this 1987 act between the 1986-87 and 1987-88 school years. For the purposes of this section, no salary which an employee would have been paid in the 1986-87 school year shall be considered to be less than $16,500 on a full time equivalent basis if the district had received funds under section 502(3)(f) of chapter 7, Laws of 1987, to establish a minimum certificated salary of $16,500.

(b) For any certificated instructional employee in the 1988-89 school year, the superintendent of public instruction may allocate additional salary moneys equal to:

(i) The minimum salary required for the employee under RCW 28A-.58.—(2) (section 205(2), chapter 2, Laws of 1987 1st ex. sess.); minus

(ii) The salary that the school district would have paid to such an employee during the 1987-88 school year at the employee's 1988-89 level of experience and education, increased by the average percentage increase provided in the district's derived base salary for basic education certificated instructional staff under section 2 of this 1987 act between the 1987-88 and 1988-89 school years.

(c) The superintendent of public instruction shall allocate incremental fringe benefits as defined in subsection (1) of this section for additional salary moneys allocated under (a) and (b) of this subsection.

Sec. 4. Section 204, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.41.— (section 204, chapter 2, Laws of 1987 1st ex. sess.) are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.41.140.

(2) The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education instructional staff using the salary allocation schedule established pursuant to this section. However, no district shall receive an allocation based upon an average basic education certificated instructional staff salary which is less than the average of the district's 1986-87 actual basic education certificated instructional staff salaries, as reported to the superintendent of public instruction prior to June 1, 1987, and the legislature may grant minimum salary increases on that base: PROVIDED, That the superintendent of public instruction may adjust this allocation based upon the education and experience of the district's certificated instructional staff.

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 House October 10, 1987.
Passed the Senate October 10, 1987.
Approved by the Governor October 16, 1987.
Filed in Office of Secretary of State October 16, 1987.

CHAPTER 2

[Engrossed Senate Bill No. 6085]
HAZARDOUS WASTE CLEANUP

AN ACT Relating to the environment; amending RCW 90.48.460 and 90.48.190; amending section 6, chapter 109, Laws of 1987 and RCW 43.21B.—; adding a new section to chapter 9A.36 RCW; adding a new section to chapter 34.04 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 70.94 RCW; adding a new section to chapter 70.105 RCW; adding a new section to chapter 90.03 RCW; adding a new section to chapter 90.44 RCW; adding new sections to chapter 90.48 RCW; adding a new section to chapter 90.58 RCW; creating a new chapter in Title 70 RCW; creating a new chapter in Title 82 RCW; creating new sections; repealing RCW 70.105A.010, 70.105A.020, 70.105A.030, 70.105A.040, 70.105A.050, 70.105A.060, 70.105A.070, 70.105A.080, 70.105A.090, 70.105A.900, and 70.105A.905; prescribing penalties; 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. INTENT. The legislature recognizes that the beneficial stewardship of the land, air, and waters of the state is a solemn obligation of the present generation for the benefit of future generations.

A healthful environment is threatened by numerous hazardous waste sites in this state. The legislature finds that private parties should be provided with encouragement to exercise their responsibility to clean up the sites for which they are responsible, but that if they refuse to do so, then the state should conduct cleanup operations and recover the costs thereof from the private parties. The legislature also finds that there are numerous publicly owned sites that were former solid waste landfills and that because the cost of cleaning those sites frequently exceeds the financial resources of refuse rate payers, state financial assistance is appropriate.

The legislature finds that because it is often difficult or impossible to allocate responsibility among persons liable for hazardous waste sites and because it is essential that sites be cleaned up well and expeditiously, each liable person should be liable jointly and severally.

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

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

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

(3) "Disposal" means the discharge, deposit, injection, release, dumping, spilling, leaking, placing, or allowing to seep of any hazardous substance into or on any land or water.

(4) "Facility" means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft, or (b) any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(5) "Federal cleanup law" means the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

(6) "Hazardous substance" means:

(a) Any dangerous or extremely hazardous waste as defined in RCW 70.105.010(5) and (6), or any dangerous or extremely hazardous waste designated by rule pursuant to chapter 70.105 RCW;

(b) Any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule pursuant to chapter 70.105 RCW;

(c) Any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law;

(d) Any substance or category of substances determined by the director by rule to present a threat to human health or the environment if released into the environment;

(e) Solid waste decomposition products that present a substantial threat to human health or the environment; and

(f) Petroleum and petroleum products.

(7)(a) "Owner or operator" means:

(i) Any person with any ownership interest in the facility or who exercises any control over the facility; or

(ii) In the case of an abandoned facility, any person who had owned, operated, or exercised control over the facility any time before its abandonment.

(b) The term "owner or operator" does not include:

(i) An agency of the state or unit of local government that acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title; or

(ii) A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility; or

(iii) A person who holds a security interest in a facility, or who as a result of the interest acquires ownership or control of a facility, where the security interest was created to secure the repayment of value extended solely for the purpose of remedial action costs, and the value actually has been or will be applied to that purpose; or

(iv) A person, including, but not limited to, a bank, savings and loan association, savings bank, credit union or insurance company, which, while holding a security interest in a facility and pursuant to such interest, exercises or has exercised control consistent with ordinary and customary lending practices, but such control shall not include operation of the facility or assumption of business decisions of the facility.

(c) Paragraph (b) of this subsection does not apply to a person who has caused or contributed to the release or threatened release of a hazardous substance from the facility, nor does it apply to any person whom the department finds uses a security interest as a device to avoid liability under this chapter.

(8) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

(9) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under section 4 of this act.

(10) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the

abandonment or disposal of containers of hazardous substances. A release of a pesticide for which liability is exempted under section 4(3)(d) of this act shall not be considered hazardous unless, either alone or in conjunction with other releases, the release of the pesticide threatens human health or the environment.

(11) "Remedy" or "remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

NEW SECTION. Sec. 3. DEPARTMENT'S POWERS AND DUTIES. (1) The department may exercise the following powers in addition to any other powers granted by law:

(a) The department may conduct, provide for conducting, or require potentially liable persons to conduct remedial actions to remedy a release or threatened release of a hazardous substance. In carrying out such powers, the department's authorized employees, agents, or contractors or the employees, agents, or contractors of a potentially liable person acting under an approved settlement agreement may enter upon property. In conducting such remedial actions, the department may obtain information and access to property pursuant to section 11 of this act. In conducting, providing for, or requiring remedial action, the department shall give preference to permanent solutions to the maximum extent practicable and shall provide for or require adequate monitoring to ensure the effectiveness of the remedial action.

(b) The department may carry out all state programs authorized under the federal cleanup law and the Federal Resource, Conservation, and Recovery Act, 42 U.S.C. Sec. 6901 et seq., as amended.

(c) The department may classify substances as hazardous substances for purposes of section 2(6) of this act and classify substances and products as hazardous substances for purposes of section 45 of this act.

(d) The department may take any other actions necessary to carry out the provisions of this chapter, including the adoption of rules under chapter 34.04 RCW. The department may adopt emergency or interim rules where immediate promulgation of rules is necessary to implement this chapter prior to the adoption of final rules.

(e) Prior to adopting rules to carry out this chapter, the department shall facilitate discussions among persons interested in the rule-making and act to mediate differences among such persons in order to achieve to the maximum extent possible consent on the rules.

(2) The department shall immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. Within nine months after the effective date of this section, the department shall adopt rules under chapter 34.04 RCW to:

(a) Establish criteria for determining priorities among hazardous substance sites. These criteria shall assure that sites are ranked by a system that objectively and numerically assesses the relative degree of risk at such sites; and

(b) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site.

(3) Before November 1st of each even-numbered year, the department shall develop, with public notice and hearing, and submit to the ways and means and appropriate standing environmental committees of the senate and house of representatives a ranked list of projects and expenditures recommended for appropriation from both the state and local toxics control accounts. The department shall also provide the legislature and the public each year with an accounting of the department's activities supported by appropriations from the state toxics control account, including a list of known hazardous waste sites and their hazard rankings, actions taken and planned at each site, how the department is meeting its top two management priorities under RCW 70.105.150, and all funds expended under this chapter.

(4) The department shall establish a scientific advisory board to render advice to the department with respect to the hazard ranking system, cleanup standards, remedial actions, deadlines for remedial actions, monitoring, the classification of substances as hazardous substances for purposes of substances or products as hazardous substances for purposes of section 2(6) of this act. The board shall consist of independent members representing varied interests. No members may be employees of the department. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The department shall establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

(6) The department, with the assistance of the department of revenue, shall by December 1, 1991, submit to the legislature a report on the status of the cleanup program authorized by this chapter to include at a minimum the following:

(a) The amount of tax and other revenues generated and anticipated to be generated to fund the program, with a recommendation, if any, for revision of the taxing mechanism;

(b) An accounting of all expenditures made pursuant to this chapter, including a description of remedial actions in progress; each program, activity or remedial action funded and the amount of funding provided; and

(c) Projections of the need for funds for future remedial actions.

NEW SECTION. Sec. 4. STANDARD OF LIABILITY. (1) Except as provided in subsection (3) of this section, the following persons are liable with respect to a facility:

(a) The owner or operator of the facility;

(b) Any person who owned or operated the facility at the time of disposal or release of the hazardous substance;

(c) Any person who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substance at the facility, or arranged with a transporter for transport for disposal or treatment of the hazardous substance at the facility, or otherwise generated hazardous waste disposed of or treated at the facility;

(d) Any person (i) who accepts or accepted any hazardous substance for transport to a disposal, treatment, or other facility selected by the person, from which facility there is a release or a threatened release for which remedial action is required, unless the facility, at the time of disposal or treatment, could legally receive the substance; or (ii) who accepts a hazardous substance for transport to such a facility and has reasonable grounds to believe that the facility is not operated in accordance with chapter 70.105 RCW; and

(e) Any person who both sells a hazardous substance and is responsible for written instructions for its use if (i) the substance is used according to the instructions and (ii) the use constitutes a release for which remedial action is required at the facility.

(2) Each person who is liable under this section is strictly liable, jointly and severally, for all remedial action costs at or associated with the facility and for all natural resource damages resulting from the releases or threatened releases of hazardous substances. The attorney general, at the request of the department, may recover all costs and damages from persons liable for them.

(3) The following persons are not liable under this section:

(a) Any person who can establish that the release or threatened release of a hazardous substance for which the person would be otherwise liable was caused solely by:

(i) An act of God;

(ii) An act of war; or

(iii) An act or omission of a third party (including but not limited to a trespasser) other than (A) an employee or agent of the person asserting the defense, or (B) any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the person asserting this defense to liability. This defense applies only where the person asserting the defense has exercised the utmost care with respect to the hazardous substance, the foreseeable acts or omissions of the third party, and the foreseeable consequences of those acts or omissions;

(b) Any person who is an owner, past owner, or purchaser of a facility and who can establish by a preponderance of the evidence that at the time the facility was acquired by the person, the person had no knowledge or reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for the remedial action, was released or disposed of on, in, or at the facility. This paragraph (b) is limited as follows:

(i) To establish that a person had no reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property, consistent with good commercial or customary practice in an effort to minimize liability. Any court interpreting this paragraph (b) shall take into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection;

(ii) The defense contained in this paragraph (b) is not available to any person who had actual knowledge of the release or threatened release of a hazardous substance when the person owned the real property and who subsequently transferred ownership of the property without first disclosing such knowledge to the transferee;

(iii) The defense contained in this paragraph (b) is not available to any person who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance at the facility;

(c) Any person who uses a hazardous substance lawfully and without negligence for any personal or domestic purpose in or near a dwelling or accessory structure when that person is: (i) A resident of the dwelling; (ii) a person who assists the resident in the use of the substance; or (iii) a person who is employed or retained by the resident;

(d) Any person who, without negligence and in accordance with all federal and state laws, applies pesticides or fertilizers for any of the following purposes: (i) Producing any crops, farm animals, or any other farm product; (ii) growing Christmas trees; (iii) growing any nursery plant; or

(iv) growing trees, including trees for the production of timber. This exemption also extends to any owner of land leased to such person and an applicator with whom such person enters into a contract for the application of the pesticides or fertilizers, so long as the application is without negligence and is in accordance with all federal and state laws. This exemption does not apply to aquaculture; or

(e) Any person with respect to the release or threatened release of used motor oil collected by the person for recycling, if the oil (i) is not mixed with any other hazardous substance; and (ii) is collected, stored, and maintained by the person in compliance with all federal and state laws and without negligence. Unless the person has reason to believe the contrary, it shall be presumed that used motor oil that has been removed from a vehicle by the owner and delivered to the person for recycling has not been mixed with any other hazardous substance.

(4) Nothing in this chapter affects or modifies in any way any person's right to seek or obtain relief under other statutes or under common law, including but not limited to damages for injury or loss caused by a hazardous substance. No settlement by the department or remedial action ordered by a court or the department affects any person's right to obtain a remedy under common law or other statutes.

NEW SECTION. Sec. 5. PETROLEUM. (1) Petroleum, including crude oil or any fraction thereof, is covered only by the provisions of subsection (2) of this section and section 11(2) of this act, and by no other provisions of this chapter, unless:

(a) It is an extremely hazardous waste under chapter 70.105 RCW; or

(b) It is a hazardous substance under section 2(6)(c) or (e) of this act.

(2) The department may investigate, respond to, and order or initiate cleanup of spills, leaks, or discharges covered only by this subsection. The department may recover its costs incurred in exercising its powers under this section and any natural resource damages caused by the releases from any person owning or controlling the material released, or from any person otherwise responsible for the releases, and the persons are strictly liable, jointly and severally, for such costs and damages.

(3) This section expires on July 1, 1990, unless before that date legislation is enacted into law providing a comprehensive cleanup program for releases of petroleum (including crude oil or any fraction thereof) from storage tanks and specific funding sources for the program.

NEW SECTION. Sec. 6. CLEANUP STANDARDS. (1) The department shall select those actions that will attain a degree of cleanup that is protective of human health and the environment.

(2) Each remedial action approved by the department shall attain cleanup levels set by the department. Such levels shall include:

(a) With respect to each hazardous substance, a cleanup that, at a minimum, meets the substantive requirements of all applicable state and federal laws, regulations, and rules;

(b) With respect to hazardous substances for which no applicable state or federal law, regulation, or rule exists, the department shall set the cleanup level on a case-by-case basis in order to prevent potential harm to human health and the environment. In making this determination the department may refer to state and federal laws, regulations, rules, and criteria relevant and appropriate to this determination;

(c) With respect to each hazardous substance, where the proponents of a proposed remedial action demonstrate to the department by clear and convincing evidence that an alternative to cleanup levels established under (a) of this subsection would assure protection of human health and the environment, the department may allow a deviation from those cleanup levels.

NEW SECTION. Sec. 7. VOLUNTARY CLEANUPS. (1) Whenever the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, it shall notify potentially liable persons with respect to the release or threatened release, and provide them with a reasonable opportunity to propose a settlement agreement providing for remedial action. Whenever the department considers it to be in the public interest, the department shall expedite such an agreement with parties whose contribution of hazardous substances is insignificant in amount and toxicity.

(2) Within nine months after the effective date of this section, the department shall adopt rules under chapter 34.04 RCW to implement this section. At a minimum the rules shall:

(a) Provide procedures by which potentially liable persons may propose one or more remedial actions;

(b) Provide procedures for public notice and an opportunity to comment on proposed settlements;

(c) Establish reasonable deadlines and time periods for activities under this subsection; and

(d) Ensure that agreements providing for voluntary cleanups attain the cleanup levels required under section 6 of this act.

(3) Where the department and one or more potentially liable persons are unable to reach agreement for remedial action that will provide a final cleanup remedy, the persons may submit a final offer of a proposed settlement agreement, together with any material supporting the proposal. The department shall consider the offer and material submitted, as well as public comments provided on the offer, and shall issue a decision accepting or rejecting the offer. Where the department accepts the offer, it shall be entered as a consent decree pursuant to the procedures of subsection (5) of this section. Where the department rejects the offer, it shall state in writing

its reasons for rejection. This review process shall not be considered a contested case for the purpose of the administrative procedure act, chapter 34-.04 RCW.

(4) The person or persons proposing an agreement rejected by the department under subsection (3) of this section have a right to review only as provided in section 13 of this act.

(5) Where the department and potentially liable persons reach an agreement providing for voluntary remedial action, it shall be filed with the appropriate superior court as a proposed consent decree. The court shall allow at least thirty days for public comments before the proposed decree is entered, and the department shall file with the court any written comments received on the proposed decree.

(6) A person who has resolved its liability to the state under this section is not liable for claims for contribution regarding matters addressed in the settlement. The settlement does not discharge any of the other potentially liable persons, but it reduces the total potential liability of the others to the state by the amount of the settlement.

(7) The director may enter into a settlement agreement that requires the department to provide a specified amount of money from the state toxics control account to help defray the costs of implementing the plan. These funds may be provided only in circumstances where the director finds it would expedite or enhance cleanup operations or achieve greater fairness with respect to the payment of remedial action costs. In determining whether public funding will achieve greater fairness, the director shall consider the extent to which public funding will prevent or mitigate economic hardship. The director shall adopt rules providing criteria and priorities governing public funding of remedial action costs under this subsection. The amount of public funding in an agreement under this section shall be determined solely in the discretion of the director and is not subject to review. The department may recover the amount of public funding provided under this subsection from a potentially liable person who has not entered into a settlement agreement under this section or fulfilled all obligations under the agreement. For purposes of such a recovery action, the amount shall be considered as remedial action costs paid by the department.

NEW SECTION. Sec. 8. COVENANTS NOT TO SUE. (1) As a part of a settlement agreement accepted by the department, the director shall provide a covenant not to sue with respect to any remedial action that is required by the agreement and that will accomplish any of the following:

(a) Treatment of hazardous substances so as to destroy, eliminate, or permanently immobilize the hazardous constituents of the substances so that the substances, or any byproducts of the treatment or destruction process, no longer present any foreseeable future significant risk to human health or welfare or the environment; or

(b) When such destruction, elimination, or permanent immobilization is not practicable, the transportation of the hazardous substances from the site to an approved hazardous waste disposal facility meeting the requirements of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6924 and 6925, as amended as of the effective date of this section, and, if the substances are disposed of in this state, the rules of the department adopted pursuant to chapter 70.105 RCW for permanent disposal facilities; or

(c) Cleanup levels that have been set only under section 6(2)(a) of this act.

(2) (a) As a part of a settlement agreement with the department, the director may provide a covenant not to sue with respect to any remedial action if the cleanup levels have been established under section 6(2)(b) of this act, and if the covenant not to sue is determined by the director to be in the public interest.

(b) In making the determination of public interest the director shall consider the following factors:

(i) Whether the benefits from the expedition of the voluntary remedial action caused by the issuance of a covenant not to sue would exceed the potential future risk to human health and public finances caused by such issuance;

(ii) The nature of the risks that might remain at the facility;

(iii) The extent to which the remedial action is based on attainment of performance standards based on objective criteria for releases of substances to, or the presence of substances in, land, air. or water;

(iv) Whether the state toxics control account or sources of funding other than state general funds would be available for any additional remedial action that might eventually be necessary at the facility;

(v) Whether the monitoring and maintenance required at the site, if any, will protect human health and the environment; and

(vi) The extent to which the technology used in the remedial action is demonstrated to be effective.

(3) As a part of a settlement agreement with the department, the director may provide a covenant not to sue with respect to any remedial action taken if the cleanup level or levels have been established under section 6(2)(c) of this act and if:

(a) The director has determined that issuing the covenant is in the public interest as defined in subsection (2)(b) of this section;

(b) Compliance with the otherwise applicable standards is technically impracticable from an engineering perspective; and

(c) The remedial action provides optimum protection of human health and the environment.

(4) A "covenant not to sue" means a promise by the state of Washington, made with respect to a particular hazardous substance or a

particular area, the cleaning up of which has been the purpose of a previous remedial action undertaken by the potentially liable person at the direction of the department and with the approval of the department. A covenant shall be commensurate with and strictly limited to the scope of the previous remedial action. In issuing the covenant, the state promises that, with respect to that substance or area, it will not initiate any future administrative or judicial action to force the potentially liable person to clean up, pay the expenses for cleaning up, conduct any investigations, or pay the expenses for any investigations. As used in this subsection, the word "investigations" does not include any monitoring or maintenance activities required under a covenant.

(5) A covenant may be issued with respect to all remedial actions included under a settlement agreement, or may be issued for one or more particular remedial actions included under a settlement agreement. If the remedial action is for cleaning up a particular hazardous substance, then the covenant does not extend to other hazardous substances. A covenant issued for a remedial action for cleaning up a particular hazardous substance shall contain an express reopener clause for the discovery of the release or threatened release of other hazardous substances.

(6) If the remedial action is for cleaning up a particular area, the covenant does not extend to other areas. Notwithstanding any other provision of this section, the issuance of a covenant for a particular area (as opposed to a covenant for a particular hazardous substance) is discretionary with the department, and shall only be issued for a remedial action that the department finds will ensure that (a) there will no longer be any foreseeable future risk in the area to human health or the environment and (b) all hazardous substances in the area are destroyed, eliminated, or permanently immobilized. In issuing an area covenant the department shall take special care to ensure that both the planned remedial action and its implementation conform to this chapter. A covenant issued for a particular area shall contain an express reopener clause for the discovery of the release or threatened release of hazardous substances outside such area. As used in this section, the term "particular area" means a precisely described three-dimensional area.

(7) The issuance of a covenant not to sue does not affect the power of the state to take whatever actions are necessary, other than those expressly barred by the covenant, to protect members of the public from a health hazard, including, but not limited to, actions to prevent entrance upon the property, to prevent the use of the property for any purpose that exposes anyone to a health hazard, or to enter upon the property and take measures to clean up the hazardous substance. The issuance of a covenant does not affect any power of the state to institute or respond to any tort action or any other judicial or administrative action, so long as the state's action or response is not expressly barred by the covenant. With respect to any action filed against the state, a covenant does not bar the state from filing a cross-

claim, counterclaim, or third party action against any person who may be liable or from seeking contribution from the person, so long as the damages or relief sought by the state in filing the cross-claim, counterclaim, or third party action is not expressly barred by the covenant.

(8) The director, with the concurrence of the attorney general, shall incorporate any covenant to be issued into the settlement agreement. The director's denial of a covenant meeting the requirements of subsection (1) of this section is reviewable under section 13 of this act. The director's denial of a proposed covenant under subsections (2) or (3) of this section is not subject to review. Any covenant not to sue shall be conditioned upon satisfactory performance of the settlement agreement and issuance of a certificate of completion pursuant to section 9 of this act. A covenant ceases to be conditional and becomes effective on the date of certification of completion of the agreement.

(9) If new information is revealed while implementing a settlement agreement, the potentially liable persons and the department may amend the agreement. If the new information reveals a significant quantity of a hazardous substance or condition not previously identified in the agreement as being present at the site, in an area of the site other than that described in the agreement, or in quantities significantly greater than as described in the agreement, then the agreement shall be amended. If a proposed amendment is to be incorporated into a final consent decree, public notice and opportunity to comment shall be allowed by the court prior to its entry in accordance with section 7(5) of this act. The department shall adopt rules providing a method for amending agreements. The existence of a covenant not to sue having conditional status pursuant to subsection (8) of this section neither bars amendments to settlements nor may be considered in deciding whether or not to amend settlements.

(10) A person receiving a covenant not to sue under this chapter is not relieved of any liability owed to persons, other than the state of Washington, under any federal, state, or local law, including the common law.

(11) Issuance of a covenant not to sue to a potentially liable person does not relieve or decrease any other person's liability to the state.

NEW SECTION. Sec. 9. CERTIFICATION OF COMPLETION. (1) Upon completion of all remedial actions called for in a settlement agreement, the parties to the agreement may apply for a certificate of completion from the department. The department shall provide notice of an application for certification of completion to interested persons and the public. The notice shall include a brief analysis of the application and indicate where additional information may be obtained. Public comment shall be accepted for a minimum of forty-five days from the date of the notice.

(2) The director shall grant or deny an application for certification of completion within ninety days of the application. If the director finds that

the remedial action has been fully implemented, the director shall approve an application for certification of completion.

NEW SECTION. Sec. 10. REMEDIAL ACTION CONTRACTOR LIABILITY. (1) A person who is a remedial action contractor, or a person employed by any public body who provides services relating to remedial action, and who is working within the scope of the person's employment with respect to any release or threatened release of a hazardous substance from a facility, is not liable under this chapter, under any other state or local law, or under common law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution, and claims by third parties for death, personal injury, illness, or loss of or damage to property or economic loss, that result from the release or threatened release. This subsection does not apply in the case of a release or threatened release that is caused by conduct of the remedial action contractor that is negligent, grossly negligent, or that constitutes intentional misconduct.

(2) Nothing in this section affects the liability of any person under any warranty under state law, or the liability of an employer who is a remedial action contractor to any employee of such employer under any provision of law.

(3) The director may agree to hold harmless and indemnify any remedial action contractor meeting the requirements of this section against any liability, including the expenses of litigation or settlement, or negligence arising out of the contractor's performance in carrying out remedial action activities under this chapter, unless the liability was caused by conduct of the contractor that was grossly negligent or that constituted intentional misconduct. Indemnification under this subsection applies only to remedial action contractor liability that results from a release or threatened release of a hazardous substance if the release arises out of remedial action activities. An indemnification agreement under this subsection shall include deductibles and shall place limits on the amount of indemnification to be made available.

(4) The exemption provided under subsection (1) of this section and the authority of the director to offer indemnification under subsection (3) of this section do not apply to any person liable under section 4(1) of this act.

(5) A person retained or hired by a potentially liable person is eligible for consideration for indemnification under subsection (3) of this section only if the remedial action is being implemented under an approved settlement agreement.

NEW SECTION. Sec. 11. INVESTIGATION AND ACCESS. (1)(a) If there is a reasonable basis to believe there may be a release or threatened release of a hazardous substance, the director may require information or documents relevant to that release or threatened release from a person who has or may have information relevant to (i) the identification,

nature, and volume of materials generated, treated, stored, transported to, or disposed of at a facility and the dates thereof, (ii) the nature or extent of a release or threatened release of a hazardous substance at or from a facility, (iii) the identity of potentially liable persons, or (iv) information relating to the ability of a person to pay for or perform a remedial action. The department may subpoena witnesses, documents, and other information that the department deems necessary. In case of a refusal to obey such a subpoena, the superior court for any county in which the person is found, resides, or transacts business has jurisdiction to issue an order requiring the person to appear before the department and give testimony or produce documents. Any failure to obey such order of the court may be punished by the court as contempt.

(b) Where there is a reasonable basis to believe there may be a release or threatened release of a hazardous substance, the department, its authorized employees, agents, or contractors, or the employees, agents, or contractors of a potentially liable person acting under an approved settlement agreement, upon reasonable notice may enter upon any real property, public or private, to conduct sampling, inspection, examination, and investigation directed at evaluating the release or threatened release and determining the need, if any, for remedial action. In the event of an emergency, no notice need be provided. In conducting those activities, the department or other person gaining access under this section shall take all feasible precautions to avoid disrupting the ongoing operation on the site. The department or other person gaining access under this section shall provide to the owner, operator, or person in charge of the facility, if requested, a portion of each sample taken equal in volume or weight to the portion retained. If any analysis is made of the samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or person in charge as well as to representatives of the public and other interested persons.

(2)(a) If the director determines that: (i) An emergency exists that requires immediate action to protect human health or the environment, and (ii) the owner or operator is unwilling or unable to take such immediate action, the department, its authorized employees, agents, or contractors, or the employees, agents, or contractors of a potentially liable person acting under departmental approval may without court order enter upon property, public or private, or take such remedial action as is necessary to abate the emergency.

(b) If the potentially liable person fails to implement a settlement or if no settlement has been achieved, or for the purpose of carrying out section 5(2) of this act, the director may determine, in accordance with the procedures set forth in this section, that action to respond to a release or threatened release of hazardous substances is necessary and that entry upon real property, public or private, is necessary to execute remedial action. Such entry may be made by the department, its authorized employees, agents, or

contractors, or the employees, agents, or contractors of a potentially liable person acting under an approved settlement agreement. The director's determination shall be based upon inspection, study, or other data as may be available, shall be made in writing, and shall be available for public inspection and copying. The department shall supply the person owning, operating, or in charge of the property concerned, as well as all potentially liable persons with (i) a written document detailing the director's determination and the basis for the determination, (ii) a notice that remedial action and entry upon property shall proceed in no fewer than sixty days, and (iii) a request for a prompt response. The director shall confer with any person responding to receipt of service of the director's determination in order to accommodate that person's legitimate concerns while obtaining prompt and necessary remedial action.

(c) The department, with the assistance of the attorney general's office, may apply to superior court for an order authorizing entry upon real property to execute remedial action. The department's application shall (i) state that the notice procedures required in this section have been carried out, (ii) describe the property concerned, and (iii) describe the remedial action selected by the director and the schedule for remedial action. If, after a hearing, the superior court finds that the department's application and supporting materials establish that the department has made a reasonable attempt to accommodate any responding party's legitimate concerns, the superior court shall enter an order authorizing entry upon real property to execute remedial action.

(d) In such proceedings authorized by this subsection, the court may not review (i) the director's determination that remedial action is necessary, that the entry upon real property is necessary, or the basis for such decisions; or (ii) any response by the director to the potentially liable person's concerns.

(3) The court may not enjoin or otherwise delay any remedial action deemed necessary by the director unless the superior court finds that the person lacks any adequate remedy at law.

NEW SECTION. Sec. 12. ENFORCEMENT. (1) Whenever, in the opinion of the director, a person (a) is potentially liable for a release or threatened release of a hazardous substance, (b) has been notified of its potential liability, but (c) either (i) has not submitted a proposed settlement or (ii) has submitted a proposed settlement, the department has rejected the proposal, and, if appealed, the denial has been affirmed by the superior court, then the director may seek appropriate injunctive or other judicial relief by filing an action in Thurston county superior court or issue such order as the director deems appropriate and serve the person with the order personally or by certified mail.

(2) Whenever the director determines that there exists an imminent danger that requires immediate remedial action to protect human health or

the environment, the director may seek such injunctive relief or issue an order without prior notice or opportunity to submit a proposed settlement agreement.

(3) The director may bring an action in Thurston county superior court (a) against any potentially liable person who, without sufficient cause, fails to comply with an order issued under subsection (1) or (2) of this section to enforce the order, or (b) against any liable person to collect remedial action costs incurred by the department.

(4) In any action brought under subsection (3) of this section, the person, if liable, is responsible for:

(a) If the failure to comply with an order is willful, up to three times the amount of any remedial action costs incurred by the state as a result of the party's refusal to comply; and

(b) A civil penalty of up to ten thousand dollars for each day the party refuses to comply.

(5) The director may bring an action in Thurston county superior court to establish and collect a civil penalty for which a person is liable under section 17 of this act.

(6) Any potentially liable person who receives and complies with the terms of an order issued under this section may, within sixty days after completion of the required action, petition the director for reimbursement for any costs of the action for which the person is not liable. If the director refuses to grant all or part of the reimbursement sought, the petitioner may, within thirty days of the date of the refusal, file an action against the department in Thurston county superior court seeking reimbursement. The judicial review shall be de novo, and the burden is on the department to establish liability.

(7) Before conducting a remedial action, the department may:

(a) Prepare a proposed scope of work based on any investigation or study conducted by or for the department, the potentially liable persons, or others;

(b) Provide the identified potentially liable persons and members of the public with notice of the proposed remedial action and an opportunity to comment on the scope of work proposed;

(c) Prepare a final scope of work based on the comments received and any other study or investigation conducted by or for the department.

(8) The proposed and final scope of work and the basis for them as well as all comments received by the department constitute the record of decision of the department.

(9) Where the department has developed a record of decision for a remedial action and the department has conducted the remedial action in accordance with the record, in any action brought to recover costs, the scope of work of the department shall be presumed reasonable and necessary unless demonstrated to be arbitrary and capricious.

NEW SECTION. Sec. 13. REVIEW OF ECOLOGY DECISIONS. (1) The decisions of the department under this chapter are reviewable only as provided in this section or section 14 of this act.

(2) (a) A potentially liable person aggrieved by a department decision to deny a final offer of a proposed settlement may obtain review by filing a petition in the Thurston county superior court within ten days of receipt of that decision and serving a copy of that petition on the department. The review shall be based upon the administrative record which shall consist of the final offer of proposed settlement, the material submitted in support of that offer, all comments provided on the proposed settlement, the department's response, and all material relied on by the department in making its decision. The department's decision shall not be reversed unless it is clearly erroneous. The court shall hold a hearing upon such petition within thirty days after the department certifies the record to the court. Any person potentially aggrieved may intervene in the review proceeding under this subsection.

(b) If the potentially liable person appeals a superior court decision affirming the decision of the department, then, during the pendency of the appeal, no court may stay or otherwise delay any enforcement order issued or remedial action undertaken by the department.

(3) Any investigative or remedial action decision of the department or decision identifying potentially liable persons is reviewable exclusively in superior court as follows:

(a) In a cost recovery action pursuant to section 4 or 12 of this act;

(b) In a judicial action by the department to compel remedial action pursuant to section 12 of this act;

(c) In an action by a potentially liable person for reimbursement pursuant to section 12 of this act; or

(d) In an action by the department to establish and collect a civil penalty under section 12 of this act.

(4) Any person aggrieved by the granting or denial of a certificate of completion pursuant to section 9 of this act may file a petition for review pursuant to the administrative procedure act, chapter 34.04 RCW, of that decision in Thurston county superior court within thirty days of the department's decision.

NEW SECTION. Sec. 14. THIRD PARTY ACTIONS. (1) Any person may commence a civil action to compel the department to perform any nondiscretionary duty under this chapter. At least thirty days before commencing the action, the person must give notice of intent to sue, unless a substantial endangerment to health or the environment exists.

(2) Any person aggrieved by an action or inactions of a potentially liable person that may result in a release of a hazardous substance that presents an imminent and substantial endangerment to health or the environment may commence a civil action to compel the potentially liable

person to comply with this chapter. Before any action may be commenced, the person aggrieved shall mail by certified mail a notice of intent to sue to the director. The director shall be allowed thirty days to negotiate or mediate a resolution to the dispute before any action may be filed.

(3) Any person aggrieved by the release or threatened release of a hazardous substance may commence a civil action against any person who fails to comply with an approved settlement agreement to compel compliance with the agreement.

(4) No action may be commenced under subsection (2) or (3) of this section where:

(a) The department is diligently prosecuting a judicial action or pursuing administrative action under this chapter to force a potentially liable person to respond to the release or threatened release of hazardous substances under this chapter; or

(b) The department is diligently pursuing remedial action against the release of the hazardous substance.

(5) Civil actions under this section may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Nothing in this chapter affects or impairs any person's right under any other statute or under common law to commence a civil action relating to hazardous substances.

NEW SECTION. Sec. 15. LIENS. (1) Any liability to the state under this chapter constitutes a debt to the state. Any such debt constitutes a lien, in favor of the state, on all real property on which the remedial action was conducted.

(2) The lien imposed by this section arises at the time costs are first incurred by the state with respect to a remedial action under this chapter.

(3) The department shall file a statement of claim, describing the property subject to the lien, in the appropriate office as designated by state law. The lien continues until the liability for the costs have been satisfied. Any lien filed pursuant to this section shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is perfected in accordance with law before notice of the state lien is filed.

NEW SECTION. Sec. 16. PROPERTY——RECORDS——SALE. (1) The owner of public or private nonresidential real property upon which a release of a significant quantity of a hazardous substance has been found by the department to have occurred shall place a notice in the records of real property kept by the auditor of the county in which the property is located. The notice shall: (a) Identify the property; (b) identify the owner of the property and the person causing the notice to appear; (c) state that a release of a hazardous substance occurred on the property; (d) state the date the release occurred; and (e) direct further inquiries to the department.

The department shall maintain records that identify the remedial action taken and the hazardous substance or substances released for each remedial action that has been conducted or approved by the department. Any person with an interest in the property, injured by the failure of a property owner to comply with this section, may recover damages for that injury by filing an action in superior court for the county in which the release occurred.

(2) Where the department has discovered the release of a significant quantity of a hazardous substance following an inspection of the facility, the department shall place a notice having the contents of the notice referred to in subsection (1) of this section in the records of real property kept by the auditor of the county in which the property is located.

(3) Any certification of completion issued in accordance with section 9 of this act shall be promptly filed with the records of real property kept by the auditor of the county in which the property is located and shall identify the property, the owner of the property, the date of issuance of the certificate, and the date the release occurred.

(4) Before selling any right, title, or interest in real property, whether public or private, the seller of the property shall provide a written statement to the purchaser describing any release of a significant quantity of a hazardous substance that the seller knows to have occurred during the prior twenty years on the property to be sold. Unless otherwise expressly agreed by seller and purchaser, any purchaser injured by failure of a seller of real property to provide the statement as required in this subsection may recover damages for that injury by filing an action in superior court for the county in which the property is located.

(5) The department shall determine by rule, consistent with the purposes of this chapter, which releases are subject to the reporting and notification requirements under subsections (1), (2), and (4) of this section. This rule shall limit required reporting under this section to those releases that are of a magnitude that would cause a significant adverse impact to human health or the environment.

NEW SECTION. Sec. 17. FRAUD. If a potentially liable party commits fraud on the department or another potentially liable party in a proposed settlement agreement, in a request for a covenant not to sue, or in an application for a certificate of completion, then any limitation on liability or covenant not to sue otherwise provided is void, and the injured person, including the state of Washington, may recover actual damages sustained and a civil penalty of up to ten thousand dollars.

NEW SECTION. Sec. 18. PESTICIDE WASTE DISPOSAL. The director of the department of agriculture may adopt rules to allow the department of agriculture to take possession and dispose of canceled, suspended, or otherwise unusable pesticides held by persons regulated under chapter 17.21 RCW. For the purposes of this section, the department may become licensed as a hazardous waste generator.

The director of agriculture shall develop the necessary administrative structure to implement a pesticide waste disposal program. Issues to be addressed shall include, but are not limited to: Collection site acquisition, liability and insurance, transportation to the collection site and to ultimate disposal sites, licensure and regulatory compliance, volume of material to be disposed of, education as to legal use as an alternative to disposal, container disposal, and analysis of unknown presumed pesticide. In implementing the provisions of this section, the department of agriculture may charge fees of persons disposing of pesticide wastes to offset wholly or partially the program authorized by this section.

NEW SECTION. Sec. 19. HOUSEHOLD WASTE DISPOSAL. The director of the department of ecology may adopt rules to allow the department to take possession and dispose of household hazardous wastes.

The director of ecology shall assist local governments with implementation of household hazardous waste (moderate risk wastes) collection and disposal plans under RCW 70.105.220. The department shall provide technical assistance to facilitate collection site identification, acquisition of insurance, transportation to the collection site and to ultimate disposal sites, licensure and regulatory compliance, assessment of volume of material to be disposed of, education as to legal use as an alternative to disposal, container disposal, analysis of unknown presumed household hazardous wastes and other assistance the department deems appropriate. The department shall provide grants to local governments to implement household hazardous waste disposal and collection plans required under RCW 70.105.220.

In implementing the provisions of this section, the department or local governments may charge fees of persons disposing of household hazardous waste to offset wholly or partially the programs authorized by this section.

NEW SECTION. Sec. 20. BUSINESS ASSISTANCE PROGRAM. The department of ecology shall contract with a nonprofit organization to establish a "pollution prevention pays" program for the purpose of promoting hazardous waste reduction and recycling. The program shall provide technical assistance to businesses that generate hazardous waste, which shall consist of: (1) A library and bibliography of literature detailing methods of waste reduction and recycling, including an in-house data base consisting of case studies, program publications, and contacts; (2) a waste reduction and recycling hotline; (3) onsite consultations for generators of hazardous wastes; and (4) an educational outreach program.

NEW SECTION. Sec. 21. HAZARDOUS SUBSTANCES CONFISCATED BY LAW ENFORCEMENT AGENCIES. (1) The director of the department of ecology shall arrange for the collection of hazardous substances confiscated by law enforcement agencies pursuant to chapter 69-.50 RCW or may provide financial assistance to law enforcement agencies for the disposal of such substances.

(2) The director of the department of ecology may adopt rules to allow the department to take possession and dispose of hazardous substances confiscated by law enforcement agencies under chapter 69.50 RCW.

(3) Any person convicted of a crime under chapter 69.50 RCW involving hazardous substances confiscated by a law enforcement agency may upon conviction, be assessed by the sentencing court with the costs of the disposal. Any money collected pursuant to this subsection shall not be subject to deposit in the public safety and education account. The department of ecology may seek reimbursement for the department's contributions to the cost of disposal from the moneys collected from such convicted person.

NEW SECTION. Sec. 22. TOXICS CONTROL ACCOUNTS. (1) The state toxics control account and the local toxics control account are created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Forty-seven percent of those revenues that are raised by the tax imposed under section 46 of this act; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW after the effective date of this section; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the state toxics control account shall be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(a) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW, including, but not limited to, programs for collection and disposal of household hazardous waste under chapter 70.105 RCW;

(b) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(c) The hazardous waste cleanup program required under this chapter;

(d) State matching funds required under the federal cleanup law;

(e) Financial assistance for local programs in accordance with RCW 70.95.130, 70.95.220, 70.95.530, 70.105.220, 70.105.225, 70.105.235(1) (a), (b), and (c), and 70.105.260;

(f) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(g) Hazardous materials emergency response training;

(h) Water and environmental health protection and monitoring programs;

(i) Programs authorized under chapter 70.146 RCW;

(j) A public participation program, including a grant program;

(k) Public funding to assist potentially liable persons to pay for the costs of remedial action;

(l) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150,

(m) Disposal of law enforcement agency drug related confiscations as required in section 21 of this act.

(4) Fifty-three percent of those revenues that are raised by the tax imposed under section 46 of this act shall be deposited into the local toxics control account. Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments to carry out the following purposes in descending order of priority: (a) Remedial actions for public or private facilities used primarily for the disposal of municipal solid waste that are on the hazard ranking list; (b) hazardous waste plans and programs under RCW 70.105.220, 70.105.225, 70.105.235(1) (a), (b), and (c), and 70.105.260, including, but not limited to, programs for collection and disposal of household hazardous waste under chapter 70.105 RCW; (c) solid waste plans and programs under RCW 70.95.130 and 70-.95.220; and (d) solid waste disposal and management facilities, meaning facilities or systems owned or operated by local governments for the purpose of controlling, collecting, storing, treating, disposing, recycling, or recovery of solid wastes and including any equipment, structures, or property incidental to that purpose. However, the term does not include the acquisition of equipment used to collect residential or commercial garbage. In carrying out these priorities, the department shall ensure that moneys are made available to the maximum extent practicable to fund remedial actions.

(5) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute. All earnings from investment of balances in the accounts, except as provided in RCW 43.84.090, shall be credited to the accounts.

(6) When making grants or loans to local governments for assistance under this chapter, the department shall consider the following:

(a) The protection of public health;

(b) The cost to residential ratepayers without state assistance; and

(c) Actions required under federal and state permits, enforcement orders, and consent decrees.

(7) The department shall develop specific matching requirements for assisting local governments in the funding of remedial actions, hazardous and solid waste plans and programs, and solid waste disposal and management facilities. Funds for hazardous and solid waste plans and programs shall be allocated consistently with the priorities established in chapters 70-.95 and 70.105 RCW.

(8) One percent of the moneys deposited in the state and local toxics control accounts shall be allocated only for public participation grants. The department may provide public participation grants to groups of fifty or more persons who may be adversely affected by a release or threatened release of a hazardous substance and who petition the department for the grants. Grant moneys may be used only for the purposes of obtaining technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or removal at such facility. Each grant recipient shall be required, as a condition of the grant, to contribute funds equal to at least twenty percent of the grant amount and to commit such contributed funds toward the purposes for which the grant is made. Grants shall not exceed fifty thousand dollars for any one hazardous waste site, but the grant may be renewed to facilitate public participation at all stages of remedial action. All funds appropriated for public participation grants that remain unspent at the end of the biennium for which the appropriations are made revert to the state toxics control account.

NEW SECTION. Sec. 23. TOXICS CONTROL RESERVE ACCOUNT. (1) The toxics control reserve account is created in the state treasury. Money in the account shall be used solely for remedying releases or threats of releases of hazardous substances by the state at sites for which a covenant not to sue has been entered into by the state. Money deposited in the account shall be administered by the department and is subject to legislative appropriation. All earnings from investment of balances in the toxics control reserve account, except as provided in RCW 43.84.090, shall be credited to the account.

(2) Beginning on July 1, 1988, and on July 1st of each year thereafter, the state treasurer shall transfer one and one-half million dollars from the state toxics control account and one and one-half million dollars from the local toxics control account to the toxics control reserve account. This subsection applies only if on July 1st the balance in the reserve account is less than twenty million dollars.

(3) After the reserve account balance first reaches twenty million dollars, the treasurer shall on July 1st of each year thereafter transfer equal amounts from the state toxics control account and the local toxics control account sufficient to bring the balance in the reserve account to twenty million dollars, but the contribution from each account shall not exceed one and one-half million dollars in any one year.

NEW SECTION. Sec. 24. EXISTING AGREEMENTS. The consent orders and decrees in effect on the effective date of this section shall remain valid and binding.

NEW SECTION. Sec. 25. EXEMPTION FROM PERMITS. A person conducting remedial action under an approved settlement agreement or the department conducting remedial action is exempt from the procedural and substantive requirements of state and local laws that would otherwise apply to the remedial action, including those requirements imposed by chapters 70.94, 70.105, 90.03, 90.44, and 90.58 RCW.

NEW SECTION. Sec. 26. APA EXEMPTION. A new section is added to chapter 34.04 RCW to read as follows:

This chapter shall not apply to review of final settlement offers under section 13 of this act.

NEW SECTION. Sec. 27. SEPA EXEMPTION. A new section is added to chapter 43.21C RCW to read as follows:

The detailed statement and other procedural requirements of this chapter are not applicable to remedial action by the state or authorized or ordered by the state under chapter 70.___ RCW (sections 1 through 25 of this act).

NEW SECTION. Sec. 28. EXEMPTION FROM PERMITS. A new section is added to chapter 70.94 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department undertaking a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 29. EXEMPTION FROM PERMITS. A new section is added to chapter 70.105 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 30. EXEMPTION FROM PERMITS. A new section is added to chapter 90.03 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 31. EXEMPTION FROM PERMITS. A new section is added to chapter 90.44 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 32. EXEMPTION FROM PERMITS. A new section is added to chapter 90.48 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 33. EXEMPTION FROM PERMITS. A new section is added to chapter 90.58 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 34. TOXIC ENDANGERMENT. A new section is added to chapter 9A.36 RCW to read as follows:

(1) A person is guilty of toxic endangerment if he or she:

(a) Knowingly transports, treats, stores, handles, disposes of, or exports a hazardous substance or toxin in violation of state law; and

(b) Knows that such conduct places another person in imminent danger of death or serious bodily injury.

(2) As used in this section, "imminent danger" means that there is a substantial likelihood that harm will be experienced within a reasonable period of time if the danger is not eliminated.

(3) Toxic endangerment is a class B felony.

NEW SECTION. Sec. 35. It is the intent of the legislature in enacting sections 35 through 43 of this act to provide the department of ecology with the necessary resources to adequately administer water quality discharge permits issued by the state. In doing this, the legislature intends to improve water quality state-wide by enhancing the ability of the department of ecology to adequately inspect dischargers into state ground and surface waters and implement water pollution control laws. Further, the legislature intends also to improve water quality through better control of toxicants.

NEW SECTION. Sec. 36. Beginning in fiscal year 1989, the department shall recover its administrative expenses for operating all aspects of its water quality discharge permit system except adjustments specified in section 38 of this act and those expenses that are directly related to enforcement by implementing a system to collect fees from persons holding state and federal waste discharge permits. The total amount of fees collected under this chapter in any fiscal year shall not exceed three million six hundred thousand dollars. Accordingly, for purposes of sections 37 through 41 of this act, "administrative expenses" means the costs incurred by the department in:

(1) Processing permit applications and modifications;

(2) Monitoring and evaluating compliance with permits;

(3) Conducting inspections;

(4) Securing laboratory analysis of samples taken during inspections;

(5) Reviewing required plans and documents directly related to operations of permittees;

(6) Monitoring compliance with delegated pretreatment programs; and

(7) Supporting the overhead expenses that are directly related to each of the preceding activities.

Administrative expenses shall not include costs related to processing of penalties and notices of violation, inspections that extend beyond routine compliance monitoring, criminal investigations, or the overhead expenses that are directly related to these activities.

NEW SECTION. Sec. 37. (1) The department shall establish an initial fee schedule to be implemented on July 1, 1988.

(2) Except as provided in section 38 of this act, beginning on July 1, 1988, the department shall charge any person or entity holding a permit under RCW 90.48.160, 90.48.162, or 90.48.260, annual fees to recover administrative expenses as defined in section 36 of this act. In no event may the fee for any permit authorizing the discharge of eight hundred gallons or less in any one day exceed one hundred and fifty dollars for any fiscal year. This fee limit shall be periodically adjusted by the department to reflect inflation.

(3) The department shall establish an accounting mechanism to relate administrative expenses incurred in performing activities described in section 36 of this act with fees charged to persons or entities holding permits by January 1, 1989.

(4) The department shall submit a report to the appropriate standing committees of the legislature on January 1, 1991, and biennially thereafter describing the actions it has taken over the prior biennium to improve the administrative efficiency of its water quality permit system.

NEW SECTION. Sec. 38. Fees charged pursuant to section 37 of this act shall be subject to the following conditions:

(1) The department shall consider the economic impact of fees on small dischargers and shall provide appropriate adjustments.

(2) The department shall ensure that indirect dischargers do not pay twice for the administrative expenses of a permit. Accordingly, the department shall not assess fees for permits issued by a city, town, or municipal corporation under RCW 90.48.165.

(3) The department shall review applications for credits from any public entity engaging in comprehensive monitoring programs and shall approve or deny such applications, in whole or in part, before assessing permit fees. Credits shall be granted in accordance with a schedule adopted by the department by rule and shall not exceed twenty-five percent of the permit fee assessed over the five-year period of the permit. The total amount of credits granted for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars. Permit fee credits granted by the department shall not be recoverable from the water quality permit account.

NEW SECTION. Sec. 39. All fees collected under section 37 of this act shall be deposited in the water quality permit account, which is hereby created in the state treasury, subject to appropriation. Money in the account collected from fees shall be expended exclusively by the department of ecology for the purposes of administering permits issued by the department under RCW 90.48.160, 90.48.162, and 90.48.260. Other funds deposited into this account may be used for the purposes of this chapter.

NEW SECTION. Sec. 40. (1) The department of ecology shall submit a report to the appropriate standing committees of the legislature no later than January 1, 1989. The report shall include a fee schedule proposed for use in fiscal years 1990 and beyond. The legislature shall evaluate this report in determining whether to change the revenue limit specified in section 36 of this act.

(2) In developing the fee schedule, the department shall consult with and be advised by representatives of dischargers, environmental organizations, other state agencies, and other interested parties. The advice received by the department shall be included in the report. The report shall also include a projection of the level of fees necessary to adequately operate the program.

NEW SECTION. Sec. 41. (1) In determining requirements for monitoring the condition of the waters of the state and of effluent discharged therein to be included in each permit issued by the department under RCW 90.48.160, 90.48.162, and 90.48.260, the department shall ensure that all such monitoring requirements are reasonably related to: (a) Determining compliance with the permit; (b) attaining all known, available, and reasonable treatment; or (c) determining what effects the discharge from the specific facility may have on the waters of the state or the biota or sediment in the waters of the state.

(2) Monitoring activities required pursuant to subsection (1)(c) of this section shall be structured so that, if monitoring is conducted within the terms of the permit, after an appropriate period of time, the permittee may request that the department reduce the monitoring schedule and/or scope. If in the determination of the department the results of the monitoring identify no measurable adverse effects or potential adverse effects to the waters of the state or biota or sediment in the waters of the state, then a reduced schedule and/or scope shall apply. If monitoring identifies measurable adverse effects or potential adverse effects of the discharge from the specific facility on the waters of the state or biota or sediment of the waters of the state, continued, more frequent, and/or more comprehensive monitoring shall be required by action of the department. The department may allow coordinated monitoring activities where discharges from multiple persons or entities holding permits may be causing cumulative effects and where cost savings will result from such coordination.

(3) A permit may be modified during its term to revise monitoring requirements pursuant to the applicable federal requirements or if monitoring methods or approaches become available that might reasonably be expected to measure adverse effects to the waters of the state or biota or sediment in the waters of the state.

Sec. 42. Section 4, chapter 249, Laws of 1985 and RCW 90.48.460 are each amended to read as follows:

Until June 30, 1988, the department of ecology shall collect administrative expenses from any person or entity requesting action of the department pertaining to the processing of applications for permits provided in RCW 90.48.160, 90.48.162, and 90.48.260. For the purposes of this section, "administrative expenses" shall mean the total actual costs incurred by the department in processing such permit applications.

Sec. 43. Section 4, chapter 71, Laws of 1955 as last amended by section 138, chapter 109, Laws of 1987 and RCW 90.48.190 are each amended to read as follows:

A permit shall be subject to termination upon thirty days' notice in writing if the department finds:

(1) That it was procured by misrepresentation of any material fact or by lack of full disclosure in the application;

(2) That there has been a violation of the conditions thereof;

(3) That a material change in quantity or type of waste disposal exists; or

(4) That an applicant or permittee has failed to pay required fees under RCW 90.48.460 or section 37 of this act.

NEW SECTION. Sec. 44. INTENT OF HAZARDOUS SUBSTANCE TAX. It is the intent of this chapter to impose a tax only once for each hazardous substance possessed in this state and to tax the first possession of all hazardous substances, including substances and products that the department of ecology determines to present a threat to human health or the environment. This chapter is not intended to exempt any person from tax liability under any other law.

NEW SECTION. Sec. 45. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Hazardous substance" means:

(a) Any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9601(14), as amended by Public Law 99-499;

(b) Petroleum products;

(c) Any pesticide product required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act; and

(d) Any other substance, category of substance, and any product or category of product determined by the director of ecology by rule to present a threat to human health or the environment if released into the environment. The director of ecology shall not add or delete substances from this definition more often than twice during each calendar year. For tax purposes, changes in this definition take effect on the first day of the next month that is at least thirty days after the effective date of the rule. The word "product" or "products" as used in this paragraph (d) means an item or items containing both: (i) One or more substances that are hazardous substances under (a), (b), or (c) of this subsection or that are substances or categories of substances determined under this paragraph (d) to present a threat to human health or the environment if released into the environment; and (ii) one or more substances that are not hazardous substances.

Until April 1, 1988, "hazardous substance" does not include substances or products packaged as a household product and distributed for domestic use.

(2) "Petroleum product" means plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil, liquefied or liquefiable gases such as butane, ethane, and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

(3) "Possession" means the control of a hazardous substance located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have physical possession. "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(4) "Previously taxed hazardous substance" means a hazardous substance in respect to which a tax has been paid under this chapter and which has not been remanufactured or reprocessed in any manner (other than mere repackaging or recycling for beneficial reuse) since the tax was paid.

(5) "Wholesale value" means the price paid by a wholesaler or retailer to a manufacturer or the price paid by a retailer to a wholesaler when the price represents the value at the time of first possession in Washington state. In cases where no sales transaction has occurred, "wholesale value" means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character, in accordance with rules of the department.

(6) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

NEW SECTION. Sec. 46. HAZARDOUS SUBSTANCE TAX. (1) A tax is imposed on the privilege of possession of hazardous substances in this state. The rate of the tax shall be eight-tenths of one percent multiplied by the wholesale value of the substance.

(2) Moneys collected under this chapter shall be deposited in the toxics control accounts under section 22 of this act.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter. The department may adopt rules to ensure that taxes imposed on retailers are imposed equally as a tax imposed on first possessors who are not retailers. The rules may provide that the tax be imposed based on a percentage of sales for any class of retailer.

NEW SECTION. Sec. 47. EXEMPTIONS. The following are exempt from the tax imposed in this chapter:

(1) Any successive possession of a previously taxed hazardous substance. If tax due under this chapter has not been paid with respect to a hazardous substance, the department may collect the tax from any person who has had possession of the hazardous substance. If the tax is paid by any person other than the first person having taxable possession of a hazardous substance, the amount of tax paid constitutes a debt owed by the first person having taxable possession to the person who paid the tax.

(2) Any possession of a hazardous substance by a natural person under circumstances where the substance is used, or is to be used, for a personal or domestic purpose (and not for any business purpose) by that person or a relative of, or person residing in the same dwelling as, that person.

(3) Any possession of (a) alumina, (b) natural gas, (c) petroleum coke, (d) liquid fuel or fuel gas used in petroleum processing, or (e) petroleum products that are exported for use or sale outside this state as fuel.

(4) Persons or activities that the state is prohibited from taxing under the United States Constitution.

(5) Any persons possessing a hazardous substance where the possession first occurred before the effective date of this section.

NEW SECTION. Sec. 48. CREDITS. (1) Credit shall be allowed in accordance with rules of the department of revenue for taxes paid under this chapter with respect to fuel carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(2) Credit shall be allowed, in accordance with rules of the department, against the taxes imposed in this chapter for any hazardous substance tax paid to another state with respect to the same hazardous substance. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to that hazardous substance. For the purpose of this subsection:

(a) "Hazardous substance tax" means a tax:

(i) That is imposed on the act or privilege of possessing hazardous substances, and that is not generally imposed on other activities or privileges; and

(ii) That is measured by the value of the hazardous substance, in terms of wholesale value or other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

Sec. 49. Section 6, chapter 109, Laws of 1987 and RCW 43.21B.—— are each amended to read as follows:

(1) Any order issued by the department or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. Except as provided under chapter 70.— RCW (sections 1 through 25 of this act,) this is the exclusive means of appeal of such an order.

(2) The department or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.—— (section 7, chapter 109, Laws of 1987) to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only

by filing an appeal with the hearings board and serving it on the department within thirty days of receipt.

NEW SECTION. Sec. 50. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY——STATE TOXICS CONTROL ACCOUNT. The sum of fourteen million six hundred eighty-one thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics account to the department of ecology, of which:

(1) $10,000,000, or so much thereof as may be necessary, shall be expended for the purposes of administering and conducting remedial action;

(2) $4,030,000, or so much thereof as may be necessary, shall be expended for the ongoing implementation of the hazardous waste regulatory program authorized by chapter 70.105 RCW including, but not limited to, activities to permit and inspect hazardous waste facilities;

(3) $340,000, or so much thereof as may be necessary, shall be used to provide technical assistance to local governments in accordance with RCW 70.105.170 and 70.105,255, and for local planning grants as provided in RCW 70.105.220 and 70.105.235(1) (a), (b), and (c);

(4) $311,000, or so much thereof as may be necessary, shall be used for solid waste management activities including, but not limited to: (a) State and local solid waste enforcement; (b) development and dissemination of technical assistance information for local governments regarding proper management and disposal of solid waste in accordance with RCW 70.95-.100 and 70.95.263(2); and (c) local planning grants as provided in RCW 70.95.130.

NEW SECTION. Sec. 51. APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE——STATE TOXICS CONTROL ACCOUNT. The sum of two hundred thirty-four thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of agriculture to administer and carry out the agricultural waste management programs.

NEW SECTION. Sec. 52. APPROPRIATION TO THE DEPARTMENT OF COMMUNITY DEVELOPMENT—STATE TOXICS CONTROL ACCOUNT. The sum of three hundred eighty-four thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of community development to carry out hazardous waste training for fire fighters.

NEW SECTION. Sec. 53. APPROPRIATION TO THE DEPARTMENT OF REVENUE—STATE TOXICS CONTROL ACCOUNT. The sum of one hundred six thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the

state toxics control account to the department of revenue to administer the collection of taxes imposed by this act.

NEW SECTION. Sec. 54. APPROPRIATION TO THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—STATE TOXICS CONTROL ACCOUNT. The sum of seven hundred ten thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of social and health services, of which:

(1) $124,000, or so much thereof as may be necessary, shall be used to test public drinking water supplies for organic chemicals;

(2) $313,000, or so much thereof as may be necessary, shall be used to monitor drinking water supplies potentially affected by hazardous waste releases;

(3) $273,000, or so much thereof as may be necessary, shall be used for health risk assessments, health monitoring activities, and health information services for communities near a hazardous waste site.

NEW SECTION. Sec. 55. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY—LOCAL TOXICS CONTROL ACCOUNT. The sum of eighteen million six hundred eighty-five thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the local toxics account to the department of ecology, of which:

(1) $936,000, or so much thereof as may be necessary, shall be expended for local solid waste enforcement grants.

(2) $17,749,000, or so much thereof as may be necessary, shall be used for grants and loans pursuant to section 22(4) of this act.

NEW SECTION. Sec. 56. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY—TOXICS CONTROL RESERVE ACCOUNT. Effective July 1, 1988, the sum of three million dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the toxics control reserve account to the department of ecology to carry out the purposes of this act.

NEW SECTION. Sec. 57. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY——BUSINESS ASSISTANCE PROGRAM. The sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, is appropriated from the state toxics control account to the department of ecology for the biennium ending June 30, 1989, to carry out the purposes of section 20 of this act.

NEW SECTION. Sec. 58. The sum of three million six hundred thousand dollars, or so much thereof as may be necessary, is appropriated from the water quality permit account to the department of ecology for the biennium ending June 30, 1989, to carry out the purposes of sections 35 through 43 of this act.

NEW SECTION. Sec. 59. 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. 60. Section captions used in this act do not constitute any part of the law.

NEW SECTION. Sec. 61. Sections 1 through 25 of this act constitute a new chapter in Title 70 RCW. Sections 36 through 41 of this act are each added to chapter 90.48 RCW. Sections 44 through 48 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 62. Sections 44 through 48 of this act shall take effect on January 1, 1988. The department of revenue may immediately take such steps as may be necessary to ensure that the tax imposed under sections 44 through 48 of this act is implemented on its effective date.

NEW SECTION. Sec. 63. REPEALERS. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.010;

(2) Section 2, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.020;

(3) Section 3, chapter 65, Laws of 1983 1st ex. sess., section 129, chapter 7, Laws of 1985 and RCW 70.105A.030;

(4) Section 4, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.040;

(5) Section 5, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.050;

(6) Section 6, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.060;

(7) Section 7, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.070;

(8) Section 8, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.080;

(9) Section 13, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.090;

(10) Section 9, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.900; and

(11) Section 15, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.905.

NEW SECTION. Sec. 64. (1) The state treasurer shall transfer to the state toxics control account the balance of all funds in the hazardous waste control and elimination account which remain in this account immediately prior to the effective date of this section. Any person who, by the effective date of this section, has not paid the fees and other amounts due under

those sections of chapter 70.105A RCW which are repealed by section 63 of this act shall continue to be obligated to pay such fees and amounts. All payments received after the effective date of this section shall be deposited into the state toxics control account. The provisions of those RCW sections which are repealed in section 63 of this act shall continue to apply to those fees and amounts which are due on the effective date of this section.

(2) The repeal of RCW 70.105A.030 shall be applied retroactively as of January 1, 1987, so that no person, as defined in RCW 70.105A.020, will have to pay any fee for 1987, collectible in 1988.

NEW SECTION. Sec. 65. (1) This 1987 act shall constitute the alternative to Initiative 97, which has been proposed to the legislature. If the secretary of state certifies Initiative 97 to the legislature, then the secretary of state is directed to place this 1987 act on the ballot in conjunction with Initiative 97, pursuant to Article II, section 1(a) of the state Constitution.

(2) This 1987 act shall continue in force and effect until the secretary of state certifies the election results on this 1987 act. If affirmatively approved at the 1988 regular general election, the act shall continue in effect thereafter.

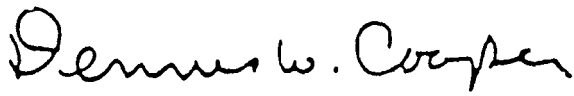
NEW SECTION. Sec. 66. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate October 10, 1987.
Passed the House October 10, 1987.
Approved by the Governor October 16, 1987.
Filed in Office of Secretary of State October 16, 1987.

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 1987 third extraordinary session, chapers 1 and 2, (50th 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 3rd day of November, 1987.



DENNIS W. COOPER
Code Reviser

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1988

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION OF 1988
FIFTIETH LEGISLATURE
Convened January 11, 1988. Adjourned March 10, 1988.

1st EXTRAORDINARY SESSION OF 1988
FIFTIETH LEGISLATURE
Convened March 11, 1988. Adjourned March 12, 1988.

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

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

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2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

(i) underlined matter is new matter.

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

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

3. PARTIAL VETOES

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

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

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1988 regular session to be June 9, 1988 (midnight June 8).

(b) Laws which carry an emergency clause take effect immediately upon approval by the Governor. All Laws of the 1988 1st extraordinary session contained an emergency clause.

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

6. INDEX AND TABLES

A cumulative index and tables of the laws of the 1987 and 2nd and 3rd extraordinary sessions and all 1988 laws may be found at the back of this permanent bound edition.

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CHAPTER 1

[House Bill No. 1318]

TWENTY-FIRST CENTURY PILOT PROJECT—APPLICATION DEADLINE EXTENSION

AN ACT Relating to changing the application deadline from March 31, 1988, to May 31, 1988, for the schools for the twenty-first century pilot project; amending RCW 28A.100.038; and declaring an emergency.

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

Sec. 1. Section 105, chapter 525, Laws of 1987 and RCW 28A.100.038 are each amended to read as follows:

Initial applications to participate in the schools for the twenty-first century pilot program shall be submitted by the school district board of directors to the state board of education not later than ((~~March~~)) May 31, 1988. Subject to available funding, additional applications may be submitted for board consideration by November 1 of subsequent years. Each application shall contain a proposed plan which:

(1) Enumerates specific activities to be carried out as part of the pilot school(s) project;

(2) Commits all parties to work cooperatively during the term of the pilot project;

(3) Includes provisions for certificated school staff, and classified school employees whose primary duties are the daily educational instruction of students, to be employed on supplemental contracts with additional compensation for a minimum of ten additional days beyond the general state funded school year allocations, and staff development time as provided by legislative appropriation, and, notwithstanding the provisions of RCW 28A.58.095(1), district resources may be used to fund the employment of staff beyond the ten additional days for the purposes of the pilot project;

(4) Includes budget plans for the project and additional anticipated sources of funding, including private grants and contributions, if any;

(5) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, or consultants available to provide such services;

(6) Identifies the evaluation and accountability processes to be used to measure school-wide student and project performance, and identifies a model which provides the basis for a staff incentive pay system. Implementation of the staff incentive pay system is not required;

(7) Justifies each request for waiver of specific state statutes or administrative rules during at least the first two years of the project;

(8) Includes a written statement that school directors and administrators are willing to exempt the pilot school(s) from specifically identified local rules, as needed;

(9) Includes a written statement that the school directors and the local bargaining agents will modify those portions of their local agreements as applicable for the pilot school(s) project; and

(10) Includes written statements of support from the district's board of directors, the district superintendent, the principal and staff of the building requesting to become a pilot school; and statements of support, willingness to participate, or concerns from any interested parent, business, or community organization.

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 20, 1988.
Passed the Senate February 26, 1988.
Approved by the Governor March 8, 1988.
Filed in Office of Secretary of State March 8, 1988.

CHAPTER 2

[House Bill No. 1306]

SCHOOL EMPLOYEE—INTERFERENCE WITH—DISCIPLINARY AUTHORITY

AN ACT Relating to the appropriate use of disciplinary authority and the protection of classified school employees; and amending RCW 28A.87.230, 28A.87.231, and 28A.87.232.

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

Sec. 1. Section 3, chapter 45, Laws of 1971 and RCW 28A.87.230 are each amended to read as follows:

It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his duties or studies.

Sec. 2. Section 3, chapter 45, Laws of 1971 and RCW 28A.87.231 are each amended to read as follows:

It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his duties or studies.

Sec. 3. Section 5, chapter 45, Laws of 1971 and RCW 28A.87.232 are each amended to read as follows:

The crimes defined in RCW 28A.87.230 and 28A.87.231 shall not apply to school administrators ((or)), teachers, or classified employees who are engaged in the reasonable exercise of their disciplinary authority.

Passed the House February 8, 1988.
Passed the Senate February 26, 1988.
Approved by the Governor March 8, 1988.
Filed in Office of Secretary of State March 8, 1988.

CHAPTER 3

[House Bill No. 1270]

WORK TRAINING RELEASE—PARTIAL CONFINEMENT

AN ACT Relating to work training release; amending RCW 9.94A.150; and declaring an emergency.

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

Sec. 1. Section 15, chapter 137, Laws of 1981 as last amended by section 8, chapter 209, Laws of 1984 and RCW 9.94A.150 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) The terms of the sentence may be reduced by earned early release time in accordance with procedures developed and promulgated by the department. The earned early release time shall be for good behavior and good performance, as determined by the department. In no case shall the aggregate earned early release time exceed one-third of the sentence;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(4) ((~~If the sentence of confinement is in excess of twelve months but not in excess of three years;~~)) No more than the final ((~~three~~)) six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community((~~: If the sentence of confinement is in excess of three years, no more than the final six months of the sentence may be served in such partial confinement~~));

(5) The governor may pardon any offender;

(6) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

(7) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160.

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 25, 1988.
Passed the Senate February 24, 1988.
Approved by the Governor March 8, 1988.
Filed in Office of Secretary of State March 8, 1988.

CHAPTER 4

[Substitute House Bill No. 1472]

APIARIES

AN ACT Relating to apiaries; amending RCW 15.60.005, 15.60.015, 15.60.020, 15.60-.025, 15.60.030, 15.60.040, 15.60.043, 15.60.050, 15.60.100, 15.60.110, 15.60.120, and 15.60-.140; adding new sections to chapter 15.60 RCW; and repealing RCW 15.60.045, 15.60.060, 15.60.080, 15.60.115, and 15.60.130.

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

Sec. 1. Section 15.60.005, chapter 11, Laws of 1961 as amended by section 1, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.005 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of agriculture of the state of Washington;

(2) "Department" means the department of agriculture of the state of Washington;

(3) "Apiary" includes bees, hives, and appliances, wherever they are kept, located, or found;

(4) "Abandoned apiary" means an apiary that has not been supered in the spring, unsupered in the fall, or otherwise managed for a period of twelve months;

(5) "Apiarist" means any person who owns bees or is a keeper of bees;

((~~(5)~~)) (6) "Appliances" means any implements or devices used in the manipulating of bees ((~~or~~)), their brood or hives, which may be used in any apiary or any extracting or packing equipment;

((~~(6)~~)) (7) "Bees" means honey producing insects of the species apis mellifera and include the adults, eggs, larvae, pupae, or other immature

stages thereof((~~, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form~~));

((~~(7)~~)) (8) "Certificate" means an inspection document, showing the presence of or freedom from a disease, and origin of shipment documentation which shall be an official document of the regulatory agency responsible for issuance;

(9) "Colony" or "colonies of bees" refers to any ((~~hive occupied by bees~~)) natural group of bees having a queen;

((~~(8)~~)) (10) "Disease" ((~~means~~)) includes but is not limited to American foulbrood ((~~or~~)), European foulbrood, chalkbrood, nosema, sacbrood, external and internal mites, or any other viral, fungal, bacterial or insect-related disease or any condition affecting bees or their brood which may cause an epidemic;

((~~(9)~~)) (11) "Hive" means any receptacle or container made or prepared for the use of bees, or box or ((~~similar~~)) other container taken possession of by bees, including movable frames, combs, or substances deposited into the hive by bees;

((~~(10)~~)) (12) "Location" means any premises upon which an apiary is located;

((~~(11)~~)) (13) "Person" includes any individual, firm, partnership, association, or corporation, but does not include any common carrier when engaged in the business of transporting bees, hives, appliances, bee cages, or other commodities subject to the provisions of this chapter, in the regular course of business;

((~~(12)~~)) (14) "Inspector" means an apiary inspector authorized by the director to inspect apiaries as provided in this chapter.

Sec. 2. Section 15.60.015, chapter 11, Laws of 1961 as amended by section 2, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.015 are each amended to read as follows:

(1) The director shall have the power on his own motion or by petition of industry to promulgate and enforce such reasonable rules, regulations, and orders as he may deem necessary or proper to prevent the introduction or spreading of diseases affecting bees or appliances in this state, and to promulgate and enforce such reasonable rules, regulations, and orders as he may deem necessary or proper governing the inspection of all bees and appliances within or about to be imported into this state. Such rules may include establishment of:

(a) Standards of strength for colonies of bees used for pollinating services((~~, and~~));

(b) ((~~a system of~~)) A beekeeper certification program for those whose colony management systems consistently have only low levels of American foulbrood;

(c) Identification for bee hives; and

(d) Maximum levels of American foulbrood which would prohibit interstate movement of inspected colonies and the colony conditions and inspection season under which such inspections will be conducted.

(2) ((~~The director shall establish rules to define abandoned apiaries and the control thereof.~~

~~(3)~~)) All rules, regulations, and orders under this section shall be adopted in accordance with chapter 34.04 RCW.

Sec. 3. Section 15.60.020, chapter 11, Laws of 1961 as amended by section 17, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 15.60.020 are each amended to read as follows:

(1) The director shall have authority to enter into reciprocal agreements with any and all states for the prevention or spread of diseases affecting bees or appliances. The director shall appoint one or more apiary inspectors as conditions may warrant, who shall, under his direction((;)):

(a) Have charge of the inspection of apiaries((;)) and bees((~~, the investigation of~~));

(b) Investigate outbreaks of bee diseases((~~, investigation of bee poisoning by agricultural insecticides~~));

(c) Investigate bee losses suspected of being caused by pesticides and other chemicals((;));

(d) Investigate bee losses or economic losses as requested by industry;

(e) Perform colony strength inspections;

(f) Perform inspections for out-of-state movement of bees or appliances;

(g) Inspect queen bee rearing apiaries;

(h) Conduct surveys in support of this chapter;

(i) Conduct the enforcement of quarantine regulations as may be promulgated by the department;

(j) Conduct the enforcement of the provisions of this chapter in relation to the eradication and control of bee diseases((~~, or~~)); and

(k) Perform any other such duties as the director may prescribe.

(2) Such apiary inspector, or inspectors, shall be paid such reasonable compensation as may be fixed by the director while so employed and travel expenses incurred in the performance of ((~~his~~)) their duties in accordance with RCW 43.03.050 and 43.03.060 ((~~as now existing or hereafter amended~~)).

(3) Services or inspections requested by industry shall only be performed for apiarists in compliance with this chapter. The director shall charge the person requesting the inspector's services all costs including per diem and travel expenses, with the proceeds to be placed in the apiary inspection fund within the agricultural local fund.

Sec. 4. Section 8, chapter 362, Laws of 1977 ex. sess. and RCW 15-.60.025 are each amended to read as follows:

There is created in the department the apiary advisory board, hereafter in this section referred to as the "board", consisting of six members appointed by the director. The members of the board shall be beekeepers representing the major geographical divisions of the beekeeping industry in the state. Such geographical divisions shall be determined by the director in accordance with the provisions of chapter 34.04 RCW. In making ((~~his~~)) the selection of the membership of the board, the director shall take into consideration the recommendations of the beekeeping industry.

The term of office of the members of the board shall be three years. ((~~Appointment of the first members of the board shall be so made that the terms of two members shall expire at the end of one year, two at the end of two years, and two at the end of three years. Thereafter appointments shall be for full three year terms.~~)) No person shall serve two successive terms as a member of the board.

The director may appoint a department representative as the secretary of the board.

The board shall be advisory to the director on all matters relating to the beekeeping industry and may make recommendations on all matters affecting the activities of the department in relation to the beekeeping industry.

The board shall meet at the call of the director or at the request of any three members of the board. It shall meet at least once each year.

Each member of the board shall serve without compensation, but shall be reimbursed for travel expenses incurred in attending meetings of the board and any other official duty authorized by the board and approved by the director in accordance with RCW 43.03.050 and 43.03.060: PROVIDED, HOWEVER, That the board shall be compensated only if apiarists are charged a sufficient fee to cover the expenses of the apiary board.

Sec. 5. Section 15.60.030, chapter 11, Laws of 1961 as last amended by section 7, chapter 296, Laws of 1981 and RCW 15.60.030 are each amended to read as follows:

Each person owning or having bees in his or her possession shall register with the director the name, address, and phone number of the owner, and identify the ((~~bee yard~~)) apiary as provided for herein, on or before April 1st each year. A registration fee may be set by the department of agriculture in compliance with chapter 34.04 RCW for the ((~~sole~~)) purpose of covering the expenses of the apiary board, or otherwise at the request of the industry. The fees shall be placed in the apiary inspection fund of the department.

The director shall issue to each apiarist owning or operating more than twenty-five colonies in the state who is registered with the department an apiarist identification number. ((~~Yards~~)) Apiary locations shall be identified by displaying the assigned identification number in at least four inch characters on the side and top of some colonies in each ((~~yard~~)) apiary location.

The identification shall be in a color that contrasts with the color of the hive. This identification shall be conspicuous to anyone approaching the ((~~bee yard: PROVIDED, That any identification number assigned to an apiarist prior to September 21, 1977 shall be assigned to such apiarist as his identification number~~)) apiary location. Any apiarist owning or operating no more than twenty-five colonies shall, when placing bees on other than his or her own property, ((~~post~~)) place his or her name and address ((~~in the apiary~~)) so as to be conspicuous to anyone approaching the apiary location.

Sec. 6. Section 15.60.040, chapter 11, Laws of 1961 as last amended by section 8, chapter 296, Laws of 1981 and RCW 15.60.040 are each amended to read as follows:

(1) The director shall make or cause to be made whenever ((~~he~~)) the director deems it necessary, inspections of all apiaries.

(2) Whenever a disease exists in any apiary, the inspector making the inspection may quarantine the apiary and shall plainly mark the hives containing diseased bees. The inspector shall, in writing, notify the owner or person in charge or in possession of such apiary ((~~by certified or registered mail~~)), stating in the notice the nature of the disease found in each colony, identifying such colony by reference to the mark placed upon the hive thereof, and ordering eradication of such disease in accordance with subsections (3) and (4) of this section or as prescribed by the director within a specified time. When the owner or person in charge or in possession of any apiary ((~~is not known~~)) cannot be contacted immediately, the notice shall be served by ((~~posting in a conspicuous place~~)) placing conspicuously in the apiary, or by mailing a copy thereof to the owner's registered address.

(3) The owner or person in charge or in possession of any diseased bees or hives must eradicate such disease within the time specified in the notice. If the disease is American foulbrood, the time specified in the notice shall not be less than twenty-four hours nor more than one hundred and twenty hours from the time of serving the notice.

(4) The owner or person in charge or in possession of any hive infected with American foul brood shall eradicate such disease by:

(a) Burning the diseased hive including bees, combs, frames, honey, and wax, and burying the ashes by means approved by the director; or

(b) Delivering the hive, comb intact, to a wax salvage plant or ((~~authorized~~)) fumigation chamber which has been authorized and designated by the director as suitable for such purposes which shall disinfect the hive by means approved by the director.

(5) Any apiary which is found ((~~to be~~)) infected with ((~~American foul brood~~)) disease and to be dangerous to the health of any apiary in this state may be summarily quarantined by the department. Notice of the quarantine shall be ((~~posted prominently on~~)) placed conspicuously in the apiary, and the owner notified of such quarantine. The quarantine shall not be removed until the department reasonably determines that no further infection exists.

During the quarantine period, no bees, honey, appliances, ((~~equipment;~~)) or other materials may be removed from the apiary without first procuring a permit from the department. ((~~However, such bees, honey, appliances, equipment, or other materials may be removed for the purpose of eradicating the disease.~~))

(6) If the inspector finds that American foulbrood disease has infected more than two hives of ninety-nine hives or fewer, or more than two percent of hives of one hundred or more, ((~~he~~)) the inspector may, if he or she deems it necessary, make a complete inspection of all hives in the apiary and the owner of the apiary shall pay the actual and necessary costs of the complete inspection.

(7) ((~~Every apiary in which American foul brood is found shall be declared a public nuisance. Whenever any such nuisance exists and the owner refuses or neglects to abate it within the time specified in the notice issued under subsection (2) of this section, the inspector shall abate said nuisance. The owner shall pay the actual and necessary costs of abatement.~~

~~(8)~~)) The owner or operator of any colony of bees found to be infected with American foulbrood shall upon his or her request be entitled to a scientific analysis of such colony before it is declared a public nuisance by the director. The results of such analysis shall be conclusive as to whether the colony is diseased. The costs of such scientific analysis shall be paid by the apiarist owning or operating the colonies being analyzed if it is found to be diseased. In case the colony is found not to be diseased, the department shall pay the cost of the scientific analysis. The laboratory performing such scientific analysis shall be approved by the director.

A person who has inspected an infected apiary or knowingly comes in contact with any diseased bees, shall, before proceeding to another apiary, thoroughly disinfect his or her person, clothing, tools, and appliances that have come in contact with any infected bees or material.

NEW SECTION. Sec. 7. A new section is added to chapter 15.60 RCW to read as follows:

(1) The following are declared a public nuisance and in violation of this chapter:

(a) Any apiary in which American foulbrood is found;

(b) Any hives wherein the combs or frames are immovable or which are so constructed as to impede or hinder inspection;

(c) Any abandoned apiary; and

(d) Any colony of apis mellifera scutellata or hybrid of that subspecies.

(2) The inspector shall give notice of such violation in the manner provided in RCW 15.60.040. Whenever any such nuisance exists and the owner refuses or fails to abate it within the time specified in the notice, the department shall abate the nuisance. The owner shall pay the actual and necessary costs of abatement, with the proceeds to be placed in the apiary inspection fund of the department.

(3) Whenever the director finds that an apiary has been abandoned and that the apiary constitutes a threat of disease to bees, the director may seize and destroy the abandoned apiary. Before doing so, however, the director shall make a reasonable effort to identify the owner of the apiary and provide the owner with notice of the director's intent to seize and destroy the apiary and with opportunity to take possession of the apiary and eliminate the threat of disease. If ownership cannot be readily ascertained and if the apiary is considered to have value, then the director shall provide for notice by publication. However, notice by publication need not be provided if the value is less than the publication costs. Whenever an owner reclaims an abandoned apiary, the owner shall be liable for all costs of the department resulting from the abandonment.

Sec. 8. Section 9, chapter 362, Laws of 1977 ex. sess. as amended by section 9, chapter 296, Laws of 1981 and RCW 15.60.043 are each amended to read as follows:

An ((~~owner of bees~~)) apiarist or his or her pollination customer may request the director to make a colony strength inspection of any colony of bees. The director, subject to the availability of qualified personnel, shall make such inspection but shall provide the apiarist with advance notice, when possible, of the inspection date. ((~~The director shall charge the person requesting such inspection the costs of such inspection, including per diem and travel expenses of the inspector.~~)) A copy of the inspection certificate ((~~report~~)) shall be sent to the person ((~~or persons owning the bees~~)) requesting the inspection and the apiarist within forty-eight hours of the colony strength inspection.

The colony strength requirement shall be decided on a yearly basis by the director, in cooperation with the apiary advisory board created by RCW 15.60.025.

Sec. 9. Section 15.60.050, chapter 11, Laws of 1961 as amended by section 5, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.050 are each amended to read as follows:

Inspectors shall have access to all apiaries and places where bees, hives, or ((~~other related equipment~~)) appliances are kept, and it shall be unlawful to resist, impede, or hinder such ((~~officers~~)) inspectors in the discharge of their duties.

Sec. 10. Section 15.60.100, chapter 11, Laws of 1961 as last amended by section 10, chapter 296, Laws of 1981 and RCW 15.60.100 are each amended to read as follows:

(1) It shall be unlawful for any person((~~, or any railroad or transportation company,~~)) or ((~~other~~)) common carrier((~~,~~)) to bring into this state for any purpose any bees or used appliances, except empty used package bee cages, without first having secured an official certificate, ((~~certified~~)) which shall be based on an inspection performed no more than sixty days prior to

movement (except by special permission from the department) by the state bee inspector of the state of origin ((~~that such bees and appliances are not infected with disease~~)) and an import permit issued by the department. The import permit with specific requirements may be obtained by mailing the original copy of the state of origin certificate and a request for a permit to the apiary inspection division of the department. ((~~Written notice shall be given by the owner to the director within three days after the date of arrival, giving the date of arrival, destination and/or location of bees or used appliances, and a copy of the inspection certificate issued by the state of origin~~)) Queen and package producers shall provide a list of Washington destination shipments with names and addresses at the end of the shipping season.

(2) The certificate shall contain, but not be limited to, a statement that the shipment is not infected with American foulbrood or other diseases regulated by the department and the state of origin and shall specify all diseases noted at the time of inspection and the number of colonies in the shipment. It shall also indicate the destination of the apiary, giving the name and complete address or phone number of the apiarist in charge of the apiary location at destination.

(3) A copy of the import permit shall accompany the shipment into Washington. Bees and appliances found to have been imported without compliance with this section may be summarily quarantined and inspected by the department. Inspection costs, including per diem and travel expenses, shall be charged to the apiarist in charge of the colonies. Fees collected shall be placed in the apiary inspection fund of the department.

(4) Nets or other devices approved by the director shall be required on all loads of hives containing bee colonies entering or leaving the state to prevent the escape of bees during transit.

(5) Each apiary or location shall be marked for identification by placing the name and address of the person importing the bees, hives, or used appliances in letters at least one inch in height so as to be conspicuous to anyone approaching the apiary location.

(6) If evidence of any disease is found, such imported bees or appliances shall be subject to the same provisions as local Washington bees or appliances. ((~~Each person who brings colonies of bees into this state shall register such colonies, as provided by RCW 15.60.030, within three days.~~))

(7) A resident beekeeper of Washington state who obtains a valid inspection certificate and moves his or her bees out of state for wintering ((~~shall~~)) may not be required to obtain an inspection certificate from the state from which they are being returned, provided that the bees are returned to the state prior to May 15th each year.

(8) A resident beekeeper of Washington state who moves his or her bees out of state for summer pasture shall be required to obtain an inspection certificate from that state prior to returning to Washington, even

though the bees may winter in a third state prior to returning to Washington.

Sec. 11. Section 15.60.110, chapter 11, Laws of 1961 as amended by section 6, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.110 are each amended to read as follows:

No person shall knowingly import into this state any bees of the subspecies apis mellifera ((~~adonsonii~~)) scutellata, or ((~~African~~)) Africanized honey bees, except for research purposes under permit from the director and under conditions as set forth by the director.

Sec. 12. Section 15.60.120, chapter 11, Laws of 1961 as amended by section 11, chapter 296, Laws of 1981 and RCW 15.60.120 are each amended to read as follows:

Every person rearing queen bees for sale shall ((~~have~~)) request each queen rearing apiary be inspected ((~~whenever necessary and~~)) when conditions are favorable for inspection. If the inspection discloses any contagious or infectious disease in any apiary, the ((~~owner, lessee, or person in charge of such apiary~~)) apiarist shall not ship any queen bees therefrom until he or she receives a certificate in writing from the inspector that such apiary is apparently free from disease.

No person rearing queen bees for sale may use honey in making candy for use in mailing cages unless the honey has been boiled for at least thirty minutes.

Sec. 13. Section 15.60.140, chapter 11, Laws of 1961 as amended by section 12, chapter 296, Laws of 1981 and RCW 15.60.140 are each amended to read as follows:

Any person who violates any provisions of this chapter shall ((~~be guilty of a misdemeanor. Upon a second and subsequent violation and conviction, the same shall constitute a gross misdemeanor~~)) have committed a class 1 civil infraction as provided in chapter 7.80 RCW.

NEW SECTION. Sec. 14. A new section is added to chapter 15.60 RCW to read as follows:

The apiary inspection fund shall be part of the agricultural local fund. No appropriation is required for disbursements from the apiary inspection fund.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 362, Laws of 1977 ex. sess. and RCW 15.60-.045;

(2) Section 15.60.060, chapter 11, Laws of 1961 and RCW 15.60.060;

(3) Section 15.60.080, chapter 11, Laws of 1961, section 22, chapter 3, Laws of 1983 and RCW 15.60.080;

(4) Section 15.60.115, chapter 11, Laws of 1961 and RCW 15.60.115; and

(5) Section 15.60.130, chapter 11, Laws of 1961 and RCW 15.60.130.

Passed the House February 3, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 5

[Substitute House Bill No. 1473]
FOOD PROCESSORS

AN ACT Relating to food processors; amending RCW 69.07.040, 69.07.050, 19.02.110, 69.07.100, and 69.08.045; and repealing RCW 69.12.010, 69.12.020, 69.12.030, 69.12.040, 69.12.050, 69.12.060, 69.12.070, 69.12.080, 69.12.110, 69.12.120, 69.16.010, 69.16.015, 69.16.020, 69.16.021, 69.16.022, 69.16.023, 69.16.030, 69.16.040, 69.16.050, 69.16.060, 69.16.070, 69.16.080, 69.16.090, 69.16.100, 69.16.110, 69.16.115, 69.16.120, 69.16.130, 69.16.160, 69.16.170, 69.16.900, 69.20.005, 69.20.007, 69.20.010, 69.20.011, 69.20.012, 69.20.013, 69.20.014, 69.20.020, 69.20.030, 69.20.040, 69.20.050, 69.20.060, 69.20.070, 69.20.080, 69.20.090, 69.20.110, 69.20.120, 69.20.150, and 69.20.900.

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

Sec. 1. Section 4, chapter 121, Laws of 1967 ex. sess. as amended by section 2, chapter 68, Laws of 1969 and RCW 69.07.040 are each amended to read as follows:

It shall be unlawful for any person to operate a food processing plant or process foods without first having obtained an annual license from the department, which shall expire on the 31st day of March following issuance. A separate license shall be required for each food processing plant. Application for a license shall be on a form prescribed by the director and accompanied by a ((~~ten~~)) twenty-five dollar annual license fee. Such application shall include the full name of the applicant for the license and the location of the food processing plant he intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof.

Sec. 2. Section 5, chapter 121, Laws of 1967 ex. sess. and RCW 69.07.050 are each amended to read as follows:

If the application for renewal of any license provided for under this chapter is not filed prior to April 1st in any year, an additional fee of

((~~five~~)) fifteen dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he or she has not operated a food processing plant or processed foods subsequent to the expiration of his or her license.

Sec. 3. Section 11, chapter 182, Laws of 1982 and RCW 19.02.110 are each amended to read as follows:

In addition to the licenses processed under the master license system prior to April 1, 1982, on July 1, 1982, use of the master license system shall be expanded as provided by this section.

Applications for the following shall be filed with the business license center and shall be processed, and renewals shall be issued, under the master license system:

(1) Nursery dealer's licenses required by chapter 15.13 RCW;

(2) Seed dealer's licenses required by chapter 15.49 RCW;

(3) Pesticide dealer's licenses required by chapter 15.58 RCW;

(4) Shopkeeper's licenses required by chapter 18.64 RCW;

(5) Refrigerated locker licenses required by chapter 19.32 RCW;

(6) Wholesalers licenses and retailers licenses required by chapter 19-.91 RCW;

(7) ((~~Bakery licenses and distributor's licenses required by chapter 69-.12 RCW; and~~

~~(8)~~)) Egg dealer's licenses required by chapter 69.25 RCW.

Sec. 4. Section 10, chapter 121, Laws of 1967 ex. sess. as amended by section 168, chapter 3, Laws of 1983 and RCW 69.07.100 are each amended to read as follows:

The provisions of this chapter shall not apply to establishments issued a permit or licensed under the provisions of:

(1) Chapter 15.32 RCW, the Dairies and dairy products act;

(2) ((~~Chapter 69.12 RCW, the Bakeries and bakery products act;~~

~~(3) Chapter 69.16 RCW, the Macaroni and macaroni products act;~~

~~(4) Chapter 69.20 RCW, the Confections act;~~

~~(5)~~)) Chapter 69.25 RCW, the Washington wholesome eggs and egg products act;

(((~~6~~))) (3) Chapter 69.28 RCW, the Washington state honey act;

(((~~7~~))) (4) Chapter 16.49 RCW, the Meat inspection act;

(((~~8~~))) (5) Title 66 RCW, relating to alcoholic beverage control; and

(((~~9~~))) (6) Chapter 69.30 RCW, the Sanitary control of shellfish act: PROVIDED, That if any such establishments process foods not specifically provided for in the above entitled acts, such establishments shall be subject to the provisions of this chapter.

The provisions of this chapter shall not apply to restaurants or food service establishments.

Sec. 5. Section 2, chapter 27, Laws of 1971 and RCW 69.08.045 are each amended to read as follows:

It shall be unlawful for any person to manufacture, bake, sell, or offer for sale for human consumption in this state, any specialty breads, or specialty rolls as defined in RCW 69.08.010 or macaroni or macaroni products as defined ((~~in RCW 69.16.020~~)) by the department by rule without using enriched white flour in the baking thereof: PROVIDED, HOWEVER, That those products which contain one hundred percent whole wheat or graham flour are exempted from the requirements of this section.

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

(1) Section 1, chapter 137, Laws of 1937 and RCW 69.12.010;

(2) Section 2, chapter 137, Laws of 1937, section 38, chapter 182, Laws of 1982 and RCW 69.12.020;

(3) Section 3, chapter 137, Laws of 1937, section 39, chapter 182, Laws of 1982 and RCW 69.12.030;

(4) Section 4, chapter 137, Laws of 1937, section 40, chapter 182, Laws of 1982 and RCW 69.12.040;

(5) Section 5, chapter 137, Laws of 1937, section 44, chapter 240, Laws of 1967, section 41, chapter 182, Laws of 1982 and RCW 69.12.050;

(6) Section 6, chapter 137, Laws of 1937 and RCW 69.12.060;

(7) Section 7, chapter 137, Laws of 1937, section 13, chapter 213, Laws of 1985 and RCW 69.12.070;

(8) Section 8, chapter 137, Laws of 1937, section 1, chapter 44, Laws of 1939 and RCW 69.12.080;

(9) Section 10, chapter 137, Laws of 1937 and RCW 69.12.110; and

(10) Section 11, chapter 137, Laws of 1937 and RCW 69.12.120.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 190, Laws of 1939 and RCW 69.16.010;

(2) Section 2, chapter 190, Laws of 1939 and RCW 69.16.015;

(3) Section 3, chapter 190, Laws of 1939 and RCW 69.16.020;

(4) Section 4, chapter 190, Laws of 1939 and RCW 69.16.021;

(5) Section 5, chapter 190, Laws of 1939 and RCW 69.16.022;

(6) Section 6, chapter 190, Laws of 1939 and RCW 69.16.023;

(7) Section 7, chapter 190, Laws of 1939 and RCW 69.16.030;

(8) Section 8, chapter 190, Laws of 1939 and RCW 69.16.040;

(9) Section 9, chapter 190, Laws of 1939, section 45, chapter 240, Laws of 1967 and RCW 69.16.050;

(10) Section 10, chapter 190, Laws of 1939 and RCW 69.16.060;

(11) Section 11, chapter 190, Laws of 1939 and RCW 69.16.070;

(12) Section 12, chapter 190, Laws of 1939 and RCW 69.16.080;

(13) Section 13, chapter 190, Laws of 1939 and RCW 69.16.090;

(14) Section 14, chapter 190, Laws of 1939 and RCW 69.16.100;

(15) Section 15, chapter 190, Laws of 1939 and RCW 69.16.110;

(16) Section 16, chapter 190, Laws of 1939, section 1, chapter 30, Laws of 1961 and RCW 69.16.115;

(17) Section 17, chapter 190, Laws of 1939, section 2, chapter 30, Laws of 1961 and RCW 69.16.120;

(18) Section 18, chapter 190, Laws of 1939 and RCW 69.16.130;

(19) Section 21, chapter 190, Laws of 1939, section 20, chapter 154, Laws of 1979 and RCW 69.16.160;

(20) Section 22, chapter 190, Laws of 1939 and RCW 69.16.170; and

(21) Section 23, chapter 190, Laws of 1939 and RCW 69.16.900.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 112, Laws of 1939 and RCW 69.20.005;

(2) Section 2, chapter 112, Laws of 1939 and RCW 69.20.007;

(3) Section 3, chapter 112, Laws of 1939 and RCW 69.20.010;

(4) Section 4, chapter 112, Laws of 1939 and RCW 69.20.011;

(5) Section 5, chapter 112, Laws of 1939 and RCW 69.20.012;

(6) Section 6, chapter 112, Laws of 1939 and RCW 69.20.013;

(7) Section 7, chapter 112, Laws of 1939 and RCW 69.20.014;

(8) Section 8, chapter 112, Laws of 1939 and RCW 69.20.020;

(9) Section 9, chapter 112, Laws of 1939 and RCW 69.20.030;

(10) Section 10, chapter 112, Laws of 1939, section 46, chapter 240, Laws of 1967 and RCW 69.20.040;

(11) Section 11, chapter 112, Laws of 1939 and RCW 69.20.050;

(12) Section 12, chapter 112, Laws of 1939 and RCW 69.20.060;

(13) Section 13, chapter 112, Laws of 1939 and RCW 69.20.070;

(14) Section 14, chapter 112, Laws of 1939 and RCW 69.20.080;

(15) Section 15, chapter 112, Laws of 1939 and RCW 69.20.090;

(16) Section 18, chapter 112, Laws of 1939 and RCW 69.20.110;

(17) Section 19, chapter 112, Laws of 1939 and RCW 69.20.120;

(18) Section 22, chapter 112, Laws of 1939 and RCW 69.20.150; and

(19) Section 23, chapter 112, Laws of 1939 and RCW 69.20.900.

Passed the House Janury 25, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 6

[House Bill No. 1470]

MOTOR VEHICLES—SIZE, WEIGHT LOAD, AND AXLES

AN ACT Relating to motor vehicles; and amending RCW 46.04.582 and 46.44.041.

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

Sec. 1. Section 2, chapter 149, Laws of 1979 ex. sess. and RCW 46-.04.582 are each amended to read as follows:

"Tandem axle" means any two or more consecutive axles whose centers are ((~~more than forty-two inches but not more than eighty-four inches apart, and are individually attached to and/or articulated from a common attachment to the vehicle, including a connecting mechanism designed to equalize the load between axles~~)) less than seven feet apart.

Sec. 2. Section 22, chapter 64, Laws of 1975-'76 2nd ex. sess. as last amended by section 3, chapter 351, Laws of 1985 and RCW 46.44.041 are each amended to read as follows:

No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
15		47,000	52,000					
16		48,000	52,500	52,500				
17		48,500	53,500	53,500				
18		49,500	54,000	54,000				
19		50,000	54,500	54,500				
20		51,000	55,500	55,500				
21		51,500	56,000	56,000				
22		52,500	56,500	56,500				
23		53,000	57,500	57,500				
24		54,000	58,000	58,000				
25		54,500	58,500	58,500				
26		55,500	59,500	59,500				
27		56,000	60,000	60,000				
28		57,000	60,500	61,000	61,000			
29		57,500	61,500	62,000	62,000			
30		58,500	62,000	63,000	63,000			
31		59,000	62,500	64,000	64,500			
32		60,000	63,500	65,000	65,000			
33			64,000	66,000	66,000			
34			64,500	67,000	67,000			
35			65,500	68,000	68,000			
36			66,000	69,500	69,500			
37			66,500	70,500	70,500			
38			67,500	72,000	72,000			
39			68,000	72,500	72,500			
40			68,500	73,000	73,000			
41			69,500	73,500	73,500			
42			70,000	74,000	74,000			
43			70,500	75,000	75,000			
44			71,500	75,500	75,500			

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
45			72,000	76,000	76,000			
46			72,500	76,500	80,000	80,000		
47			73,500	77,000	81,000	81,000		
48			74,000	78,000	82,000	82,000		
49			74,500	78,500	83,000	83,000		
50			75,500	79,000	84,000	84,000		
51			76,000	80,000	84,500	85,000		
52			76,500	80,500	85,000	86,000		
53			77,500	81,000	86,000	87,000		
54			78,000	81,500	86,500	88,000	91,000	91,000
55			78,500	82,500	87,000	89,000	92,000	92,000
56			79,500	83,000	87,500	90,000	93,000	93,000
57			80,000	83,500	88,000	91,000	94,000	94,000
58				84,000	89,000	92,000	95,000	95,000
59				85,000	89,500	93,500	96,000	96,000
60				85,500	90,000	95,000	97,000	97,000
61				86,000	90,500	95,500	98,000	98,000
62				87,000	91,000	96,000	99,000	99,000
63				87,500	92,000	97,000	100,000	100,000
64				88,000	92,500	97,500	101,000	101,000
65				88,500	93,000	98,000	102,000	102,000
66				89,500	93,500	98,500	103,000	103,000
67				90,000	94,000	99,000	104,000	104,000
68				90,500	95,000	99,500	105,000	105,000
69				91,000	95,500	100,000	105,500	105,500
70				92,000	96,000	101,000	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles ((~~shall~~

~~not exceed 1.2 times the load given in the above table divided by the number of axles in that group, and~~)) shall not exceed the single axle or tandem axle allowance as set forth ((~~elsewhere. For considering the number of axles in a group, the front axle of a unit supplying motive power need not be included in the axle group~~)) in the table above.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

It is unlawful to operate upon the public highways any single unit vehicle, supported upon three axles or more with a gross weight including load in excess of forty thousand pounds or any combination of vehicles having a gross weight in excess of eighty thousand pounds without first obtaining an additional tonnage permit as provided for in RCW 46.44.095: PROVIDED, That when a combination of vehicles has purchased license tonnage in excess of seventy-two thousand pounds as provided by RCW 46.16.070, such excess license tonnage may be applied to the power unit subject to limitations of RCW 46.44.042 and this section when such vehicle is operated without a trailer.

It is unlawful to operate any vehicle upon the public highways equipped with two axles spaced less than seven feet apart((~~;~~)) unless the two axles are so constructed and mounted ((~~in such a manner as to provide oscillation between the two axles and that either one of the two axles will not at any one time carry more than the maximum gross weight allowed for one axle specified in this section~~)) that the difference in weight between the axles does not exceed three thousand pounds. However, variable lift axles are exempt from this requirement. For purposes of this section, a "variable lift axle" is an axle that may be lifted from the roadway surface, whether by air, hydraulic, mechanical, or any combination of these means. The weight allowed on the axle is governed by RCW 46.44.042 and this section.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations and procedures in effect in this state on January 4, 1975.

Passed the House February 3, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 7

[House Bill No. 1760]

INDUSTRIAL LOAN COMPANIES

AN ACT Relating to industrial loan companies; and amending RCW 31.04.090 and 31.04.100.

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

Sec. 1. Section 8, chapter 172, Laws of 1923 as last amended by section 1, chapter 74, Laws of 1985 and RCW 31.04.090 are each amended to read as follows:

Every corporation under the provisions of this chapter shall have power:

(1) To lend money and to deduct interest therefor in advance at the rate of ten percent per annum, or less; however, for any loan with a term in excess of two years, interest may be calculated by the simple interest method at a rate which does not exceed twenty-five percent per annum.

(2) To agree with the borrower for the payment of an aggregate amount for expenses incurred and services rendered in connection with the investigation of the character and circumstances of the borrower and the security offered in connection with ((~~his~~)) the loan, and for servicing and maintaining the said loan and security, which amount shall not in any event exceed an initial charge of two dollars on a loan under one hundred dollars or a maximum of two percent of the loan amount advanced to or for the direct benefit of the borrower on any loan of one hundred dollars or more, and which initial charge may be deducted from said loan in advance, and a charge of fifty cents per month to be collected monthly during the actual period that said loan or any part thereof remain unpaid.

(3) To agree with the borrower for the payment of fees for title insurance, appraisals, recording, reconveyance and releasing fees when those fees are actually paid by the licensee to a third party for those services or purposes, and to include those fees in the amount of the loan. No charge shall be collected unless a loan is made, except for reasonable fees properly incurred in connection with the appraisal of security offered by a potential borrower. In connection with appraisal of property, the borrower may select a qualified, independent, professional, third party appraiser subject to approval by the lender. If the lender selects the appraiser, the appraiser shall be a qualified, independent, third party appraiser.

(4) To require the borrower to purchase simultaneously with the loan transaction, or otherwise, and pledge as security therefor, an investment certificate of the character described in subsection (((~~4~~))) (5) of this section, in an amount equal to the amount of the note. Upon maturity of the

note, the borrower may, at his or her option, surrender the investment certificate. ((~~No additional charge shall be made except to reimburse the corporation for money actually expended to any public officer for filing and recording any instrument securing such loan or in connection therewith. No charge shall be collected unless a loan shall have been made, except for reasonable fees properly incurred in connection with appraisal of security offered by a potential borrower. In connection with appraisal of property, the borrower may select a qualified appraiser subject to approval of lender. The borrower shall not be obligated to pay the appraisal fee if the loan application is rejected.~~

~~(4)~~)) (5) Except in connection with an open-end loan, and subject to the limitations provided in this chapter, to sell or negotiate written evidences of debt, to be known as "investment certificates," for the payment of money by the corporation at any time, and bearing interest, as therein designated, and to receive payment therefor in full or in installments; to charge a penalty of five cents or less on each dollar of such installment payments delinquent one full week or more. No interest shall be collected on delinquent installments. No certificate or securities of any nature shall be sold at a price in excess of the actual book value of the certificate or securities sold. The issuance of written evidences of debt authorized by this subdivision shall be subject to the provisions of RCW 31.04.230.

((~~(5)~~)) (6) To make open-end loans as provided in this chapter.

((~~(6)~~)) (7) To borrow money. Nothing contained in this subdivision or in subsection ((~~(4)~~)) (5) of this section shall be construed as authorizing the corporation to receive deposits or to issue certificates of deposit or to create any liability due on demand.

((~~(7)~~)) (8) To establish branches subject to the approval and authority of the supervisor of banking.

((~~(8)~~)) (9) Conferred upon corporations by RCW 31.04.120.

Sec. 2. Section 9, chapter 172, Laws of 1923 as last amended by section 2, chapter 74, Laws of 1985 and RCW 31.04.100 are each amended to read as follows:

No corporation under the provisions of this chapter shall:

(1) Make any loan, other than an open-end loan, on the security of makers, comakers, endorsers, sureties or guarantors, for a longer period than five years from the date thereof.

(2) Hold at any one time the primary obligation, or obligations of any person, firm or corporation, for more than fifteen percent of the amount of the paid-up capital and surplus of such industrial loan company.

(3) Hold at any one time the obligation or obligations of persons, firms, or corporations purchased from any person, firm or corporation in excess of twenty percent of the aggregate paid-up capital and surplus of such industrial loan company.

(4) Make any loans, other than open-end loans, or loans secured by real estate or personal property used as a residence, secured by chattel mortgage for a longer period than five years from the date thereof.

(5) Make any loan secured by real property using the discount method.

(6) Make any loan or discount on the security of its own capital stock, or 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. Stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within ninety days from the time of its purchase or acquisition.

((~~(6)~~)) (7) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for commercial banks.

((~~(7)~~)) (8) Make any loan or discount, nor shall any officer or employee thereof on behalf of such corporation, make any loan or discount directly or indirectly to any director, officer or employee of such corporation.

((~~(8)~~)) (9) Have outstanding at any time its promissory notes or other evidences of debt in an aggregate sum in excess of three times the aggregate amount of its paid-up capital and surplus, exclusive of investment certificates hypothecated with the corporation issuing them.

((~~(9)~~)) (10) Exact a surrender charge on investment certificates issued by the corporation.

((~~(10)~~)) (11) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depository by a vote of the majority of the directors or the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

((~~(11)~~)) (12) Make any loan ((~~or discount~~)) secured by real estate ((~~with a total note, less interest and investigation fee~~)) in an amount in excess of ninety percent of the value of such real estate and improvements, including all prior liens against the same: PROVIDED, That for any such loan with a term in excess of two years, the interest rate charged shall not exceed twenty-five percent per annum.

((~~(12)~~)) (13) Have outstanding at any time investment certificates issued in the name of any one person, firm or corporation for an amount in excess of fifteen percent of its paid-up capital and surplus.

((~~(13)~~)) (14) Pledge or hypothecate any of its securities to any creditor except that it may borrow and rediscount an amount not to exceed in the aggregate three times the amount of the paid-up capital and surplus thereof, and may pledge as security for amounts borrowed assets of the corporation not exceeding one and one-half times the amount borrowed and may pledge as security for amounts rediscounted assets of the corporation not exceeding one-half the amount rediscounted.

(15) Make any loan secured by an investment certificate that does not provide for a refund to the borrower or a credit to the borrower's account of the unearned portion of the interest when the note is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date. If the originally scheduled term of the loan is less than thirty-seven months, unearned interest may be refunded or credited using the sum of the digits method commonly known as the "rule of seventy-eights". If the originally scheduled term of the loan is thirty-seven months or more, the refund of the unearned portion of the interest shall be computed as follows:

Interest shall be considered earned at the single nominal annual percentage rate which, if applied to the unpaid amounts of principal outstanding from time to time, would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded. For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date, and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent. In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed one-thirtieth of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

Passed the House February 10, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 8

[House Bill No. 280]

MOTOR VEHICLE ACCIDENT REPORTING OBLIGATIONS—FAILURE TO COMPLY

AN ACT Relating to suspension of driving privileges; and amending RCW 46.52.035.

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

Sec. 1. Section 2, chapter 119, Laws of 1965 ex. sess. and RCW 46-.52.035 are each amended to read as follows:

The director ((~~shall~~)) may suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as provided in RCW 46.52.030 until such report has been filed.

Passed the House January 13, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 9

[House Bill No. 1300]
CHARTER BOATS

AN ACT Relating to charter boats; and amending RCW 75.28.095.

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

Sec. 1. Section 1, chapter 90, Laws of 1969 as last amended by section 112, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.095 are each amended to read as follows:

(1) A charter boat license is required for a vessel to be operated as a charter boat from which food fish are taken for personal use. The annual license fees are:

Species	Resident Fee	Nonresident Fee
(a) Food fish other than salmon	$100	$200
(b) Salmon and other food fish	$200	$200

(2) "Charter boat" means a vessel from which persons may, for a fee, fish for food fish, and which delivers food fish ((~~taken from offshore waters~~)) into state ports or delivers food fish taken from state waters into United States ports. "Charter boat" does not mean:

(a) Vessels not generally engaged in charter boat fishing which are under private lease or charter and operated by the lessee for the lessee's personal recreational enjoyment; or

(b) Vessels used by guides for clients fishing for ((~~salmon~~)) food fish for personal use in freshwater rivers, streams, and lakes, other than Lake Washington or that part of the Columbia River below the bridge at Longview.

(3) A vessel shall not engage in both charter or sports fishing and commercial fishing on the same day. A vessel may be licensed for both

charter boat fishing and for commercial fishing at the same time. The license or delivery permit allowing the activity not being engaged in shall be deposited with the fisheries patrol officer for that area or an agent designated by the director.

Passed the House February 8, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 10

[Substitute House Bill No. 1370]

PERSONAL PROPERTY TAX EXEMPTION INCREASED—CONTINGENT EFFECTIVE DATE

AN ACT Relating to property tax exemptions for the head of a family; amending RCW 84.36.110; and providing an effective date.

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

Sec. 1. Section 84.36.110, chapter 15, Laws of 1961 as amended by section 71, chapter 299, Laws of 1971 ex. sess. and RCW 84.36.110 are each amended to read as follows:

The following property shall be exempt from taxation:

(1) All household goods and furnishings in actual use by the owner thereof in equipping and outfitting his or her residence or place of abode and not for sale or commercial use, and all personal effects held by any person for his or her exclusive use and benefit and not for sale or commercial use.

(2) The personal property, other than specified in subdivision (1) hereof, of each head of a family liable to assessment and taxation of which such individual is the actual and bona fide owner to an amount of three ((~~hundred~~)) thousand dollars of actual values: PROVIDED, That this exemption shall not apply to any private motor vehicle, or mobile home, and: PROVIDED, FURTHER, That if the county assessor is satisfied that all of the personal property of any person is exempt from taxation under the provisions of this statute or any other statute providing exemptions for personal property, no listing of such property shall be required; but if the personal property described in ((~~subdivision (2) of~~)) this subsection exceeds in value the amount allowed as exempt, then a complete list of said personal property shall be made as provided by law, and the county assessor shall deduct the amount of the exemption authorized by this ((~~subdivision~~)) subsection from the total amount of the assessment and assess the remainder.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1989, for taxes levied for collection in 1990 and thereafter, if the proposed amendment to Article VII, section 1 of the state Constitution authorizing

an increased personal exemption for the head of a family (HJR 4222) is validly submitted to and is approved and ratified by the voters at a general election held in November 1988. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety.

Passed the House February 15, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 11

[House Bill No. 1514]
FLUORIDATION BY WATER DISTRICTS

AN ACT Relating to fluoridation by water districts; amending RCW 57.08.010; and adding a new section to chapter 57.08 RCW.

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

Sec. 1. Section 8, chapter 114, Laws of 1929 as last amended by section 10, chapter 449, Laws of 1987 and RCW 57.08.010 are each amended to read as follows:

A water district may acquire by purchase or condemnation, or both, all property and property rights and all water and water rights, both within and without the district, necessary for its purposes. A water district may lease real or personal property necessary for its purposes for a term of years for which such leased property may reasonably be needed where in the opinion of the board of water commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities of the third class, insofar as consistent with the provisions of this title, except that all assessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the water district, and the duties devolving upon the city treasurer are hereby imposed upon the county treasurer. A water district may construct, condemn and purchase, purchase, add to, maintain and supply waterworks to furnish the district and inhabitants thereof, and any city or town therein and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, content, distribution, and price thereof in such a manner as is not in conflict with general law. A water district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under terms approved by the board of commissioners.

Such waterworks may include facilities which result in combined water supply and electric generation, provided that the electricity generated thereby is a byproduct of the water supply system. Such electricity may be used by the water district or sold to any entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of water supply. For such purposes, a water district may take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake, river or watercourse, or any underflowing water and, by means of aqueducts or pipe line conduct the same throughout such water district and any city or town therein and carry it along and upon public highways, roads and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipe lines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such water district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a water district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner.

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

A water district may fix rates and charges for water supplied and may charge property owners seeking to connect to the district's water supply system, as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that such property owners shall bear their equitable share of the cost of such system.

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

NEW SECTION. Sec. 2. A new section is added to chapter 57.08 RCW to read as follows:

A water district by a majority vote of its board of commissioners may fluoridate the water supply system of the water district. The commissioners may cause the proposition of fluoridation of the water supply to be submitted to the electors of the water district at any general election or special

election to be called for the purpose of voting on the proposition. The proposition must be approved by a majority of the electors voting on the proposition to become effective.

Passed the House February 8, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 9, 1988.
Filed in Office of Secretary of State March 9, 1988.

CHAPTER 12

[Senate Bill No. 6494]

MOTOR VEHICLE LICENSES AND REGISTRATION—APPLICATION FEE INCREASE

AN ACT Relating to motor vehicle license fees; and amending RCW 46.01.140.

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

Sec. 1. Section 12, chapter 380, Laws of 1985 as amended by section 1, chapter 302, Laws of 1987 and RCW 46.01.140 are each amended to read as follows:

The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle upon the public highways of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of ((~~one~~)) two dollars for each application in addition to any other fees required by law. Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of three dollars in addition to any other fees required by law. These additional fees, if paid to the county auditor as agent of the director, or if paid to an agent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his expenses in handling the application: PROVIDED, That an agent of the county auditor is entitled to an additional service charge of two dollars: PROVIDED FURTHER, That if the fee is collected

by the state patrol or the department of transportation, as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such filing fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

Passed the Senate February 12, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 13

[Engrossed House Bill No. 1401]
SHELTERED WORKSHOPS

AN ACT Relating to the business and occupation tax exemption for sheltered workshops; and amending RCW 82.04.385.

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

Sec. 1. Section 3, chapter 81, Laws of 1970 ex. sess. as amended by section 1, chapter 134, Laws of 1972 ex. sess. and RCW 82.04.385 are each amended to read as follows:

This chapter shall not apply to income received from the department of social and health services for the cost of care, maintenance, support, and training of ((~~mentally retarded~~)) persons with developmental disabilities at nonprofit group training homes as defined by RCW 72.33.800(2) or to the ((~~gross sales or gross income received by~~)) business activities of nonprofit organizations from the operation of ((~~,~~))sheltered workshops((~~,~~)). For the purposes of this section, "the operation of sheltered workshops" means ((~~rehabilitation facilities, or that part of rehabilitation facilities, where any manufacture or handiwork is carried on and which is operated~~)) performance of business activities of any kind on or off the premises of such nonprofit organizations which are performed for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for handicapped individuals.

Passed the House February 1, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 14

[Senate Bill No. 6339]

INDIAN CHILD WELFARE PROCEEDINGS—JURISDICTION

AN ACT Relating to jurisdiction over voluntary Indian child welfare proceedings; amending RCW 13.04.030; and creating a new section.

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

Sec. 1. Section 2, chapter 160, Laws of 1913 as last amended by section 1, chapter 170, Laws of 1987 and RCW 13.04.030 are each amended to read as follows:

The juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(1) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170, as now or hereafter amended;

(3) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210, as now or hereafter amended;

(4) To approve or disapprove alternative residential placement as provided in RCW 13.32A.170;

(5) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13-.40.230, as now or hereafter amended, unless:

(a) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110, as now or hereafter amended; or

(b) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(c) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or subsection (5)(a) of this section: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under

an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(6) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(7) Relating to termination of a diversion agreement under RCW 13-.40.080 as now or hereafter amended, including a proceeding in which the divertee has attained eighteen years of age; and

(8) Relating to court validation of a voluntary consent to foster care placement under chapter 13.34 RCW ((~~or relinquishment or consent to adoption under chapter 26.33 RCW~~)), by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction.

NEW SECTION. Sec. 2. Any court validation of a voluntary consent to relinquishment or adoption of an Indian child which was obtained in a juvenile court or superior court pursuant to chapter 26.33 RCW after July 25, 1987, and before the effective date of this section shall be valid and effective in all respects.

Passed the Senate February 16, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 15

[Senate Bill No. 6362]

HORSELESS CARRIAGES—LICENSE PLATES, FENDERS

AN ACT Relating to vehicles over forty years old; and amending RCW 46.16.310 and 46.37.500.

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

Sec. 1. Section 46.16.310, chapter 12, Laws of 1961 as last amended by section 1, chapter 143, Laws of 1982 and RCW 46.16.310 are each amended to read as follows:

Notwithstanding any other provisions of this chapter, any motor vehicle which is not less than ((~~40~~)) forty years old and is owned and operated primarily as a collector's item shall, upon application and acceptance in the manner and at the time prescribed by the department, be issued a special commemorative license plate in lieu of the regular license plates. Any vehicles to be so licensed must be in good running order. In addition to paying all other initial fees required by law, each applicant shall pay a fee of twenty-five dollars, which fee shall entitle him to one permanent license plate valid for the life of the vehicle. The single plate shall be displayed on the rear of the vehicle.

The registration numbers and special license plates assigned to such motor vehicles shall run in a separate numerical series, commencing with "Horseless Carriage No. 1." The plates shall be of a distinguishing color.

In the event of defacement, loss, or destruction of such special plate, the owner shall apply for a replacement plate in the same manner as prescribed by law for the replacement of regular plates.

All fees collected under this section shall be deposited in the state treasury and credited to the motor vehicle fund.

Sec. 2. Section 46.37.500, chapter 12, Laws of 1961 as amended by section 41, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.500 are each amended to read as follows:

((~~No person shall~~)) (1) Except as authorized under subsection (2) of this section, no person may operate any motor vehicle, trailer, or semitrailer that is not equipped with fenders, covers, flaps, or splash aprons adequate for minimizing the spray or splash of water or mud from the roadway to the rear of the vehicle. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(2) A motor vehicle that is not less than forty years old and is owned and operated primarily as a collector's item need not be equipped with fenders when the vehicle is used and driven during fair weather on well-maintained, hard-surfaced roads.

Passed the Senate February 10, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 16

[Substitute Senate Bill No. 5147]

PUBLIC UTILITY AND TRANSPORTATION CORRIDORS—REVERSIONARY INTERESTS

AN ACT Relating to public utility and transportation corridors; and amending RCW 64-.04.180 and 64.04.190.

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

Sec. 1. Section 22, chapter 143, Laws of 1984 and RCW 64.04.180 are each amended to read as follows:

Railroad properties, including but not limited to rights-of-way, land held in fee and used for railroad operations, bridges, tunnels, and other facilities, are declared to be suitable for public use upon cessation of railroad operations on the properties. It is in the public interest of the state of Washington that such properties retain their character as public utility and transportation corridors, and that they may be made available for public

uses including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. Nothing in this section or in RCW 64.04.190 authorizes a public agency or utility to acquire reversionary interests in public utility and transportation corridors without payment of just compensation.

Sec. 2. Section 23, chapter 143, Laws of 1984 and RCW 64.04.190 are each amended to read as follows:

((~~(1)~~)) Public utility and transportation corridors are railroad properties ((~~(a)~~)) (1) on which railroad operations have ceased; ((~~(b)~~)) (2) that have been found suitable for public use by an order of the Interstate Commerce Commission of the United States; and ((~~(c)~~)) (3) that have been acquired by purchase, lease, donation, exchange, or other agreement by the state, one of its political subdivisions, or a public utility.

((~~(2) A public utility and transportation corridor retains its public use character as long as it is owned by a public agency or utility. A public utility and transportation corridor is not subject to reversion, taking by adverse possession, or any similar property interests ripening on the cessation of railroad operations.~~))

Passed the Senate February 5, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 17

[House Bill No. 1531]
SUNSET REVIEW

AN ACT Relating to redefining the standards for sunset review of a regulatory entity and extending the duration of the sunset review process; and amending RCW 43.131.060 and 43.131.900.

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

Sec. 1. Section 6, chapter 289, Laws of 1977 ex. sess. and RCW 43-.131.060 are each amended to read as follows:

In conducting the review of a regulatory entity, the legislative budget committee shall consider, but not be limited to, the following factors where applicable:

(1) ((~~The extent to which the regulatory entity has permitted qualified applicants to serve the public;~~

~~(2) The extent to which the regulatory entity restricts or inhibits competition or otherwise adversely affects the state's economic climate;~~

~~(3) The extent to which the system of regulation has contributed directly or indirectly to increasing or decreasing the costs of any goods or services involved;~~

~~(4) The duties of the regulatory entity and the costs incurred in carrying out such duties;~~

~~(5) Whether the regulatory entity has operated in the public interest, including the extent to which the regulatory entity has:~~

~~(a) Sought and achieved public participation in making its rules and decisions including consideration of recommending appointment of one or more "public" members to the entity;~~

~~(b) Processed to completion in a timely and equitable manner the formal complaints filed with it;~~

~~(c) Implemented an effective system of evaluating the impact on the public of its rules and decisions regarding economy, availability, and improvement of the services rendered to the persons it regulates;~~

~~(d) Initiated administrative procedures or recommended statutory changes to the legislature that would benefit the public as opposed to the persons it regulates; and~~

~~(e) Identified the needs and problems of the recipients of goods and services provided by those regulated;~~

~~(6) The extent to which persons regulated by the regulatory entity have been encouraged to participate in assessing problems in their profession, occupation, or industry which affect the public;~~

~~(7) The impact and effectiveness of the regulatory entity with respect to the problems or needs the entity was intended to address;~~

~~(8) The consequences of eliminating or modifying the program of the regulatory entity;~~

~~(9)~~)) The extent to which the regulatory entity has operated in the public interest and fulfilled its statutory obligations;

(2) The duties of the regulatory entity and the costs incurred in carrying out those duties;

(3) The extent to which the regulatory entity is operating in an efficient, effective, and economical manner;

(4) The extent to which the regulatory entity inhibits competition or otherwise adversely affects the state's economic climate;

(5) The extent to which the regulatory entity duplicates the activities of other regulatory entities or of the private sector, where appropriate; and

((~~(10)~~)) (6) The extent to which the absence or modification of regulation would adversely affect, maintain, or improve the public health, safety, or welfare.

Sec. 2. Section 16, chapter 289, Laws of 1977 ex. sess. as last amended by section 16, chapter 223, Laws of 1982 and RCW 43.131.900 are each amended to read as follows:

((~~Except for sections 14, 15, and 17 of this 1977 amendatory act, this 1977 amendatory act~~)) RCW 43.131.010 through 43.131.150 shall expire

on June 30, ((~~1990~~)) 2000, unless extended by law for an additional fixed period of time.

Passed the House February 8, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 18

[Senate Bill No. 6371]

MOTOR VEHICLE EXCISE TAX DISTRIBUTION—DOUBLE AMENDMENT CORRECTION

AN ACT Relating to correcting a double amendment to the motor vehicle excise tax distribution section; and reenacting and amending RCW 82.44.150.

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

Sec. 1. Section 3, chapter 428, Laws of 1987 and section 8, chapter 9, Laws of 1987 1st ex. sess. and RCW 82.44.150 are each reenacted and amended to read as follows:

(1) The director of licensing shall on the twenty-fifth day of February, May, August, and November of each year, commencing with November, 1971, advise the state treasurer of the total amount of motor vehicle excise taxes remitted to the department of licensing during the preceding calendar quarter ending on the last day of March, June, September, and December, respectively, except for those payable under RCW 82.44.020(6) and 82.44-.030, from motor vehicle owners residing within each municipality which has levied a tax under RCW 35.58.273, which amount of excise taxes shall be determined by the director as follows:

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW 82.44.020(6) and 82.44.030, from each county shall be multiplied by a fraction, the numerator of which is the population of the municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the amount of excise taxes from motor vehicle owners residing within such municipality or portion thereof. Where the municipality levying a tax under RCW 35.58.273 is located in more than one county, the above computation shall be made by county, and the combined products shall provide the total amount of motor vehicle excise taxes from motor vehicle owners residing in the municipality as a whole. Population figures required for these computations shall be supplied to the director by the office of financial management, who shall adjust the fraction annually.

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer based upon information provided by the

department of licensing shall make the following apportionment and distribution of motor vehicle excise taxes deposited in the general fund except taxes collected under RCW 82.44.020(6). A sum equal to seventeen percent thereof shall be paid to cities and towns in the proportions and for the purposes hereinafter set forth; ((~~and~~)) a sum equal to two percent thereof shall be allocable to the county sales and use tax equalization account under RCW 82.14.200; and a sum equal to four and two-tenths percent of the special excise tax levied under RCW 35.58.273 by those municipalities authorized to levy a special excise tax at a rate not exceeding ninety-six one-hundredths of one percent on the fair market value of every motor vehicle owned by a resident of such municipality shall be deposited in the rail development account established in RCW 47.78.010.

(3) The amount payable to cities and towns shall be apportioned among the several cities and towns within the state according to the following formula:

(a) Sixty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned ratably on the basis of population as last determined by the office of financial management.

(b) Thirty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned to cities and towns under RCW 82.14.210.

(4) When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be utilized by such city or town for the purposes of police and fire protection and the preservation of the public health therein, and not otherwise. In case it be adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

(5) On the first day of the months of January, April, July, and October of each year, the state treasurer, based upon information provided by the department of licensing, shall remit motor vehicle excise tax revenues imposed and collected under RCW 35.58.273 as follows:

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding the excise tax imposed under RCW 35.58.273 for the purposes of this section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35-.58.273 during the calendar quarter next preceding the immediately preceding quarter.

(6) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (5) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (5) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (5) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year. At the time of the next fiscal audit of each municipality, the state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

(7) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section shall be remitted without legislative appropriation.

(8) Any municipality levying and collecting a tax under RCW 35.58-.273 which does not have an operating, public transit system or a contract for public transportation services in effect within one year from the initial effective date of the tax shall return to the state treasurer all motor vehicle excise taxes received under subsection (5) of this section.

EXPLANATORY NOTE

RCW 82.44.150 was reenacted by 1987 1st ex.s. c 9 § 8 and by 1987 c 428 § 3, each without reference to the other. The 1987 1st ex.s. c 9 § 8 reenactment was a nonsubstantive reenactment which changed a reference and deleted obsolete references and language. The 1987 c 428 § 3 reenactment deleted obsolete references and added a provision providing for the deposit of a portion of the local motor vehicle excise tax into the rail development account. There is no substantive conflict between

the different versions, but the versions cannot be merged for publication purposes under RCW 1.12.025(2) because the sections were reenacted differently. This act reenacts RCW 82.44.150 as one section with all changes incorporated therein.

Passed the Senate February 5, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 19

[Senate Bill No. 6374]

BOXING COMMISSION—REFERENCE CORRECTIONS

AN ACT Relating to the state boxing commission; and amending RCW 67.08.001, 67-.08.060, 67.08.140, and 82.04.340.

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

Sec. 1. Section 1, chapter 184, Laws of 1933 as amended by section 1, chapter 337, Laws of 1981 and RCW 67.08.001 are each amended to read as follows:

(1) For the purposes of this chapter((:

~~(a)~~)), "boxing" includes, but is not limited to, wrestling, sumo, judo, and karate in addition to fisticuffs((~~; and~~)).

(2) There is hereby created and established a state commission to be known and designated as the "state boxing commission" and in this chapter referred to as the commission. The commission shall be composed of three members who shall be appointed by the governor and shall be subject to removal at the pleasure of the governor. The members of the first commission to be appointed after June 7, 1933, shall be appointed for the terms beginning July 1, 1933, and expiring as follows: One commissioner for the term expiring January 31, 1934, one commissioner for the term expiring January 31, 1935, and one commissioner for the term expiring January 31, 1936. Each of the first commissioners appointed shall hold office until his successor is appointed and qualified. Upon the expiration of the terms of the three commissioners first appointed, each succeeding commissioner shall be appointed to hold office for a term of four years and until his successor shall have been appointed and qualified. In case of a vacancy, it shall be filled by the appointment by the governor for the unexpired portion of the term in which such vacancy occurs.

Sec. 2. Section 12, chapter 184, Laws of 1933 as last amended by section 154, chapter 34, Laws of 1975–'76 2nd ex. sess. and RCW 67.08.060 are each amended to read as follows:

The commission may appoint official inspectors at least one of which, in the absence of a member of the commission, shall be present at any boxing contest or sparring and/or wrestling match or exhibition held under the provisions of this chapter. Such inspectors shall carry a card signed by the

chairman of the commission evidencing their authority. It shall be their duty to see that all rules and regulations of the commission and the provisions of this chapter are strictly complied with and to be present at the accounting of the gross receipts of any contest, and such inspector is authorized to receive from the licensee conducting the contest the statement of receipts herein provided for and to immediately transmit such reports to the commission. Each inspector shall receive a fee from the licensee to be set by the ((~~athletic~~)) commission for each contest officially attended. Each inspector shall also receive from the state travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 3. Section 22, chapter 184, Laws of 1933 as last amended by section 7, chapter 305, Laws of 1959 and RCW 67.08.140 are each amended to read as follows:

Any person, club, corporation, organization, association, or fraternal society conducting within this state boxing, sparring, or wrestling contests or exhibitions without having first obtained a license therefor in the manner provided by this chapter shall be guilty of a misdemeanor excepting such contests excluded from the operation of this chapter by RCW 67.08.015. The attorney general, each prosecuting attorney, the ((~~athletic~~)) commission, or any citizen of any county where any person, club, corporation, organization, association, or fraternal society shall threaten to hold, or appears likely to hold athletic contests or exhibitions in violation of this chapter, may in accordance with the laws of this state governing injunctions, enjoin such person, club, corporation, organization, association, or fraternal society from holding such contest or exhibition.

Sec. 4. Section 82.04.340, chapter 15, Laws of 1961 and RCW 82.04-.340 are each amended to read as follows:

This chapter shall not apply to any person in respect to the business of conducting boxing contests and sparring or wrestling matches and exhibitions for the conduct of which a license must be secured from the state ((~~athletic~~)) boxing commission.

EXPLANATORY NOTE

The "state athletic commission" was redesignated the "state boxing commission" by 1981 c 337 § 1. This act corrects references to the "state athletic commission" and corrects a subsection numbering error which resulted from a gubernatorial veto.

Passed the Senate February 8, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 20

[Substitute House Bill No. 1392]

CONTINUING CARE RETIREMENT COMMUNITIES—CERTIFICATE OF NEED

AN ACT Relating to continuing care retirement community; and amending RCW 70.38.025.

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

Sec. 1. Section 2, chapter 161, Laws of 1979 ex. sess. as last amended by section 43, chapter 41, Laws of 1983 1st ex. sess. and RCW 70.38.025 are each amended to read as follows:

When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(4) "Council" means the state health coordinating council created in RCW 70.38.055 and described in Public Law 93-641.

(((~~4~~))) (5) "Department" means the state department of social and health services.

(((~~5~~))) (6) "Expenditure minimum" means, for the purposes of the certificate of need program, one million dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

(((~~6~~))) (7) "Federal law" means Public Law 93-641, as amended, or its successor.

(((~~7~~))) (8) "Health care facility" means hospices, hospitals, psychiatric hospitals, tuberculosis hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, rehabilitation facilities, continuing care retirement communities, and home health agencies, and includes such facilities when owned and operated by the state or by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services; (c) whose rate reviews are waived by the state hospital commission; and (d) if not contrary to federal law as necessary to the receipt of federal funds by the state. In addition, the term does not include a continuing care retirement community which: (i) Offers services only to contractual members; and (ii) provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some form of assistance with activities of daily living; and (iii) contractually assumes responsibility for costs of services exceeding the member's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its members, no third party, including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources; and (iv) has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home; and (v) maintains a binding agreement with the department assuring that financial liability for services to members, including nursing home services, shall not fall upon the department; and (vi) does not operate, and has not undertaken, a project which would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and (vii) has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained

by the retirement community within the prior five years and fully disclosed to members.

(((~~(8)~~))) (9) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(((~~(9)~~))) (10) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

(((~~(10)~~))) (11) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services and a population of at least four hundred fifty thousand persons.

(((~~(11)~~))) (12) "Institutional health services" means health services provided in or through health care facilities and entailing annual operating costs of at least five hundred thousand dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule: PROVIDED, That no new health care facility may be initiated as an institutional health service.

(((~~(12)~~))) (13) "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of one million dollars, adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule; except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such act((;)).

((~~(13)~~)) (14) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

((~~(14)~~)) (15) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

((~~(15)~~)) (16) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

((~~(16)~~)) (17) "Regional health council" means a public regional planning body or a private nonprofit corporation which is organized and operated in a manner that is consistent with the laws of the state and which is capable of performing each of the functions described in RCW 70.38.085. A regional health council shall have a governing body for health planning which is composed of a majority (but not more than sixty percent of the members) of persons who are residents of the health service area served by the entity; who are consumers of health care; who are broadly representative of the social, economic, linguistic, and racial populations, and geographic areas of the health service area, and major purchasers of health care; and who are not, nor within the twelve months preceding appointment have been, providers of health care. The remainder of the members shall be residents of the health service area served by the agency who are providers of health care.

((~~(17)~~)) (18) "Regional health plan" means a document which provides at least a statement of health goals and priorities for the health service area. In addition, it sets forth the number, type, and distribution of health facilities, services, and manpower needed within the health service area to meet the goals of the plan.

((~~(18)~~)) (19) "State health plan" means a document developed in accordance with RCW 70.38.065.

Passed the House February 11, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 21

[Senate Bill No. 6296]

PORTS OF ENTRY—STATE PATROL AUTHORITY

AN ACT Relating to the state patrol; and adding a new section to chapter 43.43 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

The Washington state patrol may negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, and taxes that may be required by statute or rule. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size, and weight statutes or rules of the respective states.

Passed the Senate February 10, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 22

[Engrossed Senate Bill No. 6262]

INTERSTATE 90 SHORELINE DEVELOPMENT CONSTRUCTION PERMITS

AN ACT Relating to permits for State Route 90 construction on or adjacent to Lake Washington; amending RCW 90.58.140; and declaring an emergency.

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

Sec. 1. Section 14, chapter 286, Laws of 1971 ex. sess. as last amended by section 386, chapter 7, Laws of 1984 and RCW 90.58.140 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the provisions of chapter 90.58 RCW.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) The local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that:

(a) A notice of such an application is published at least once a week on the same day of the week for two consecutive weeks in a legal newspaper of general circulation within the area in which the development is proposed; and

(b) Additional notice of such an application is giv n by at least one of the following methods:

(i) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(iii) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive a copy of the final order concerning an application as expeditiously as possible after the issuance of the order, may submit the comments or requests for orders to the local government within thirty days of the last date the notice is to be published pursuant to subsection (a) of this subsection. The local government shall forward, in a timely manner following the issuance of an order, a copy of the order to each person who submits a request for the order.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until thirty days from the date the final order was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within thirty days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of ((~~the~~)) SR 90 (I-90) ((~~bridges across~~)) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b) If a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within thirty days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.04 RCW, the permittee may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction may begin pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would not involve a significant, irreversible damaging of the environment, the court may allow the permittee to begin the construction pursuant to the approved or revised permit as the court deems appropriate. The court may require the permittee to post bonds, in the name of the local government that issued the permit, sufficient to remove the substantial development or to restore the environment if the permit is ultimately disapproved by the courts, or to alter the substantial development if the alteration is ultimately ordered by the courts. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If a permit is granted by the local government and the granting of the permit is appealed directly to the superior court for judicial review pursuant to the proviso in RCW 90.58.180(1), the permittee may request the court to remand the appeal to the shorelines hearings board, in which case the appeal shall be so remanded and construction pursuant to such a permit shall be governed by the provisions of subsection (b) of this subsection or may otherwise begin after review proceedings before the hearings board are terminated if judicial review is not thereafter requested pursuant to chapter 34.04 RCW;

If a permittee begins construction pursuant to subsections (a), (b), or (c) of this subsection, the construction is begun at the permittee's own risk.

If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any ruling on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. With regard to a permit other than a permit governed by subsection (12) of this section, "date of filing" as used herein means the date of actual receipt by the department. With regard to a permit for a variance or a conditional use, "date of filing" means the date a decision of the department rendered on the permit pursuant to subsection (12) of this section is transmitted by the department to the local government. The department shall notify in writing the local government and the applicant of the date of filing.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) A permit shall not be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government before April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969; and

(b) The development is completed within two years after June 1, 1971.

(11) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and before April 1, 1971: PROVIDED, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection (10) of this section, or does not require a permit because of substantial development occurred before June 1, 1971.

(12) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

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 5, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 23

[Senate Bill No. 6667]

SPECIAL FUEL USERS—TAX LIABILITY REPORTING

AN ACT Relating to special fuel tax reporting; amending RCW 82.38.150; and providing an effective date.

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

Sec. 1. Section 16, chapter 175, Laws of 1971 ex. sess. as last amended by section 3, chapter 242, Laws of 1983 and RCW 82.38.150 are each amended to read as follows:

For the purpose of determining the amount of his liability for the tax herein imposed each special fuel dealer and each special fuel user shall file tax reports with the department, on forms prescribed by the department((; ~~at periodic~~)). Special fuel dealers shall file the reports at the intervals as shown in the following schedule:

Estimated Yearly Tax Liability	Reporting Frequency
$ 0 - $100	Yearly
$101 - 250	Semi-yearly
$251 - 499	Quarterly
$500 and over	Monthly

Special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly.

The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any special fuel licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to his address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and shall be in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter: PROVIDED, That if a special fuel dealer or special fuel user is also a special fuel supplier at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the tax report to the department need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. The special fuel dealer or special fuel user shall file the report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.

If the final filing date falls on a Saturday, Sunday or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, shall have the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

The department may permit any special fuel user whose sole use of special fuel is in motor vehicles or equipment exempt from tax as provided in RCW 82.38.075 and RCW 82.38.080(1), (2), (3), ((~~and~~)) (8), ((~~{(9)}~~)) and (9), in lieu of the reports required in this section, to submit reports annually or as requested by the department, in such form as the department may require.

A special fuel user whose sole use of special fuel is for purposes other than the propulsion of motor vehicles upon the public highways of this state shall not be required to submit the reports required in this section.

NEW SECTION. Sec. 2. This act shall take effect January 1, 1989.

Passed the Senate February 12, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 24

[Senate Bill No. 6295]

MODEL TRAFFIC ORDINANCE

AN ACT Relating to Model Traffic Ordinance; and amending RCW 46.90.300, 46.90.406, 46.90.427, and 46.90.700.

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

Sec. 1. Section 1, chapter 19, Laws of 1985 as last amended by section 1, chapter 30, Laws of 1987 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, 46.16.011, 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~~)) 46.16.710, 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, 46.20.394, 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, 46.20.750, 46.29.605, 46.29.625, 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-.170, 46.52.180, 46.52.190, 46.52.200,~~)) 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 2, chapter 24, Laws of 1986 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, 46.55.085, 46.55.090, 46.55.100, 46.55.110, 46.55.113, 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.

Sec. 3. Section 71, chapter 54, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 19, Laws of 1985 and RCW 46.90.427 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 46.61.300, 46.61.305, 46.61.310, 46.61.315, 46.61.340, 46.61.345, 46.61-.350, 46.61.355, 46.61.365, 46.61.370, 46.61.375, 46.61.385, 46.61.400, 46-.61.415, 46.61.425, 46.61.427, 46.61.428, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.470, 46.61.475, 46.61-.500, 46.61.502, 46.61.504, 46.61.506, 46.61.515, 46.61.519, 46.61.5191, 46.61.5195, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, ((~~46.61-.565,~~)) 46.61.570, and 46.61.575.

Sec. 4. Section 111, chapter 54, Laws of 1975 1st ex. sess. as last amended by section 7, chapter 65, Laws of 1980 and RCW 46.90.700 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 46.64.010, 46.64.015, 46.64.020, 46.64.025, 46.64.030, 46.64.035, and 46.64.048.

Passed the Senate February 12, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 25

[Senate Bill No. 6373]

BANKING—OBSOLETE STATUTORY REFERENCES CORRECTED

AN ACT Relating to obsolete statutory references; amending RCW 30.04.310, 31.04.160, 31.08.010, 31.08.100, 31.08.230, 31.16.025, 31.16.030, 31.16.230, 31.16.310, and 43.19.010; and decodifying RCW 31.16.330.

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

Sec. 1. Section 137, chapter 30, Laws of 1985 and RCW 30.04.310 are each amended to read as follows:

Every bank or trust company which violates or fails to comply with any provision of chapters 30.04 through ((~~30.23 RCW, inclusive, and chapters~~)) 30.22, 30.44, and 11.100 RCW ((~~of this title~~)) or any lawful direction or requirement of the supervisor shall be subject, in addition to any penalty now provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense.

Sec. 2. Section 16, chapter 172, Laws of 1923 and RCW 31.04.160 are each amended to read as follows:

The director of ((~~taxation and examination~~)) general administration, through and by means of the division of banking, shall collect from each corporation under the provisions of this chapter, for each complete examination of its condition the cost thereof, but not less than fifty dollars. For each partial examination he shall collect the cost thereof, but not less than twenty-five dollars.

Sec. 3. Section 1, chapter 208, Laws of 1941 and RCW 31.08.010 are each amended to read as follows:

The following words and terms when used in this chapter shall have the following meanings unless the context clearly requires a different meaning. The meaning ascribed to the singular form shall apply also to the plural.

(1) "Person" shall include individuals, copartnerships, associations, trusts, corporations, and all other legal entities.

(2) "License" shall mean a single license issued under the authority of this chapter with respect to a single place of business.

(3) "Licensee" shall mean a person to whom one or more licenses have been issued.

(4) "Supervisor" the duly appointed supervisor of banking of the division of banking, department of ((~~finance, budget and business of the state of Washington~~)) general administration.

Sec. 4. Section 9, chapter 208, Laws of 1941 and RCW 31.08.100 are each amended to read as follows:

The supervisor shall, upon ten days' written notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke any license issued hereunder if he shall find that:

(1) The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this chapter or to comply with any specific order or demand of the supervisor lawfully made and directed to the licensee pursuant to and within the authority of this chapter; or that

(2) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provisions of this chapter or any general rule or regulation lawfully made by the supervisor under and within the authority of this chapter; or that

(3) Any fact or condition exists which, if it had existed at the time of the original application for such license, clearly would have warranted the supervisor in refusing originally to issue such license.

The supervisor may, upon five days' written notice and after a hearing, suspend any license for a period not exceeding thirty days, pending investigation.

The supervisor may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if he shall find that such grounds for revocation or suspension are of general application to all offices, or to more than one office, operated by such licensee, he shall revoke or suspend all of the licenses issued to said licensee or such licenses as such grounds apply to, as the case may be.

Any licensee may surrender any license by delivering to the supervisor written notice that he thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

Every license issued hereunder shall remain in force and effect until the same shall have been surrendered, revoked, or suspended in accordance with the provisions of this chapter, but the supervisor shall have authority on his own initiative to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the supervisor in refusing originally to issue such license under this chapter.

Whenever the supervisor shall revoke or suspend a license issued pursuant to this chapter, he shall forthwith file with the division of banking of the department of ((~~finance, budget and business~~)) general administration his order of revocation or suspension together with his finding with respect thereto and the reasons supporting the order, and forthwith serve upon the licensee a copy thereof, from which order the applicant may appeal as provided in RCW 31.08.260.

Sec. 5. Section 20, chapter 208, Laws of 1941 and RCW 31.08.230 are each amended to read as follows:

The supervisor is hereby authorized and empowered to make general rules and regulations and specific orders, demands, and findings for the enforcement of this chapter, in addition hereto and not inconsistent herewith.

Copies of all general rules and regulations shall be mailed to every licensee by the supervisor on or before their respective effective dates and copies of all general rules and regulations and of all specific orders and demands shall be kept in a permanent, indexed book in the ((~~department [division]~~)) division of banking of the department of general administration, and shall be public records.

Sec. 6. Section 3, chapter 121, Laws of 1921 and RCW 31.16.025 are each amended to read as follows:

Any number of bona fide growers of standard crops in the state of Washington, not less than ten, may associate themselves together to form a crop credit association in the manner hereinafter provided. The term "standard crops" as herein used means wheat, hay, apples, potatoes, and such other crops as the director of ((~~marketing~~)) agriculture of the state of Washington shall hereafter designate.

Sec. 7. Section 5, chapter 121, Laws of 1921 and RCW 31.16.030 are each amended to read as follows:

The director of ((~~farm marketing~~)) agriculture of the state of Washington shall have general charge and supervision of all such crop credit associations as herein provided. Before beginning his duties as the director of crop credit associations he shall make and file in the office of the secretary of state a bond in the penal sum of five thousand dollars, to be approved by the secretary of state, conditioned upon the faithful discharge

of his duties as such director of crop credit associations. The word "director" wherever it shall hereafter appear in this chapter shall mean the director of ((~~farm marketing~~)) agriculture of the state of Washington.

Sec. 8. Section 24, chapter 121, Laws of 1921 and RCW 31.16.230 are each amended to read as follows:

A full report of every issue of such crop credit notes shall be made to the director by the trustee at the time of sale of said notes and again at the time of the redemption thereof, said reports to be made upon blanks furnished therefor by said director. The director shall at all times have the right and privilege of inspecting the crops, securities, warehouse receipts and accounts of the said association or the said trustee until the issue secured by same shall have been fully paid and retired. Each association shall make an annual report to the director ((~~of markets~~)), showing the gross returns to said association from the business of the previous year; an itemized statement of its expenses; the amount of its net gain, if any, which shall have been transferred to a surplus account; and the amount of money distributed to its members.

Sec. 9. Section 33, chapter 121, Laws of 1921 and RCW 31.16.310 are each amended to read as follows:

All fees collected by the director shall inure to the benefit of the State College of Washington for use in the work of the director ((~~of marketing~~)) and shall be available therefor without any other or further appropriation thereof. A statement of all receipts and expenditures by the director shall be made in his annual report.

Sec. 10. Section 43.19.010, chapter 8, Laws of 1965 as amended by section 1, chapter 167, Laws of 1975 1st ex. sess. and RCW 43.19.010 are each amended to read as follows:

The department of general administration shall be organized into divisions, which shall include (1) the division of banking, (2) the division of savings and loan associations, (3) the division of capitol buildings, (4) the division of purchasing, (5) the division of engineering and architecture, and ((~~[(6)]~~)) (6) the division of motor vehicle transportation service.

The director of general administration shall have charge and general supervision of the department. He may appoint and deputize such clerical and other assistants as may be necessary for the general administration of the department. The director of general administration shall receive a salary in an amount fixed by the governor.

NEW SECTION. Sec. 11. RCW 31.16.330 is decodified.

EXPLANATORY NOTE

This act corrects obsolete statutory references in the following respects:
(1) Section 1 of this act corrects a citation reference.

(2) Sections 2 through 5 of this act change references to the division of banking of the department of taxation and examination and the division of banking of the department of finance, budget and business to the division of banking of the department of general administration.

(3) Sections 6 through 9 of this act change references to the director of marketing, the director of farm markets, and the director of markets to the director of agriculture.

(4) Section 10 of this act corrects a subsection numbering error.

(5) Section 11 of this act decodifies a transfer section that is no longer necessary because of this act.

Passed the Senate February 8, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 26

[Senate Bill No. 6516]

BRIDGE REPLACEMENT IN RURAL AREAS

AN ACT Relating to replacement of bridges on rural arterials; and amending RCW 36-.79.010, 36.79.020, 36.79.050, 36.79.060, 36.79.090, and 36.79.120.

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

Sec. 1. Section 1, chapter 49, Laws of 1983 1st ex. sess. and RCW 36-.79.010 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Rural arterial program" means improvement projects on those two systems of county roads in rural areas classified as major collectors and minor collectors in accordance with the federal functional classification system and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas.

(2) "Rural area" means every area of the state outside of areas designated as urban areas by the state transportation commission with the approval of the secretary of the United States department of transportation in accordance with federal law.

(3) "Board" means the county road administration board created by RCW 36.78.030.

Sec. 2. Section 2, chapter 49, Laws of 1983 1st ex. sess. and RCW 36-.79.020 are each amended to read as follows:

There is created in the motor vehicle fund the rural arterial trust account. All moneys deposited in the motor vehicle fund to be credited to the rural arterial trust account shall be expended for (1) the construction and improvement of county major and minor collectors in rural areas, (2) the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas, and (3) for those expenses of the board associated with the administration of the rural arterial program.

Sec. 3. Section 5, chapter 49, Laws of 1983 1st ex. sess. and RCW 36-.79.050 are each amended to read as follows:

At the beginning of each fiscal biennium, the board shall establish apportionment percentages for the five regions defined in RCW 36.79.030 in the manner prescribed in RCW 36.79.040 for that biennium. The apportionment percentages shall be used once each calendar quarter by the board to apportion funds credited to the rural arterial trust account that are available for expenditure for rural major and minor collector projects and for construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas. The funds so apportioned shall remain apportioned until expended on construction projects in accordance with rules of the board. Within each region, funds shall be allocated by the board to counties for the construction of specific rural arterial projects on major and minor collectors and construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas in accordance with the procedures set forth in this chapter.

Sec. 4. Section 6, chapter 49, Laws of 1983 1st ex. sess. and RCW 36-.79.060 are each amended to read as follows:

The board shall:

(1) Adopt rules necessary to implement the provisions of this chapter relating to the allocation of funds in the rural arterial trust account to counties;

(2) Adopt reasonably uniform design standards for county major and minor collectors that meet the requirements for trucks transporting commodities;

(3) Report biennially on the first day of November of the even-numbered years to the legislative transportation committee and the house and senate transportation committees regarding the progress of counties in developing plans for their rural major and minor collector construction programs and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas and the allocation of rural arterial trust funds to the counties.

Sec. 5. Section 10, chapter 49, Laws of 1983 1st ex. sess. and RCW 36.79.090 are each amended to read as follows:

Upon receipt of a county's revised six-year program, the board as soon as practicable shall review and may revise the construction program as it relates to rural arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas for which rural arterial trust account moneys are requested as necessary to conform to (1) the priority rating of the proposed project, based upon the factors in RCW 36.79.080, in relation to proposed projects in all other rural arterial construction programs submitted by the counties and within each region; and (2) the amount of rural arterial trust account funds that the board estimates will be apportioned to the region.

Sec. 6. Section 12, chapter 49, Laws of 1983 1st ex. sess. and RCW 36.79.120 are each amended to read as follows:

Counties receiving funds from the rural arterial trust account for construction of arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas shall provide such matching funds as established by rules recommended by the board, subject to review, revision, and final approval by the state transportation commission. Matching requirements shall be established after appropriate studies by the board, taking into account financial resources available to counties to meet arterial needs.

Passed the Senate February 10, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 27

[Substitute Senate Bill No. 6536]

UNEMPLOYMENT COMPENSATION—EXPERIENCE RATING ACCOUNTS—PLANT CURTAILMENT OR CLOSURE—NATURAL DISASTERS

AN ACT Relating to experience rating for unemployment insurance purposes; amending and reenacting RCW 50.29.020; and creating a new section.

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

Sec. 1. Section 2, chapter 2, Laws of 1987 and section 3, chapter 213, Laws of 1987 and RCW 50.29.020 are each amended and reenacted to read as follows:

(1) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department. Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section ((~~and in RCW 50.29.022~~)).

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12-.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his or her base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer.

(d) Benefits paid which represent the state's share of benefits payable under chapter 50.22 RCW shall not be charged to the experience rating account of any contribution paying employer.

(e) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(f)(i) Benefits paid to an individual as the result of a determination by the commissioner that no stoppage of work exists, pursuant to RCW 50.20-.090, shall not be charged to the experience rating account of any contribution paying employer.

(ii) Benefits paid to an individual under RCW 50.20.090(1) for weeks of unemployment ending before February 20, 1987, shall not be charged to the experience rating account of any base year employer.

(g) In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

(h) Beginning July 1, 1985, a contribution–paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if:

(i) The benefit charges result from payment to an individual who last left the employ of such employer voluntarily for reasons not attributable to the employer, or was discharged for misconduct connected with his or her work; and

(ii) The employer requests relief of charges in writing within thirty days following mailing to the last known address of the notification of the initial determination of such a claim, stating the date and reason for the last leaving; and

(iii) Upon investigation of the separation, the commissioner rules that the relief should be granted.

(i) Benefits paid to an individual who does not successfully complete an approved on-the-job training program under RCW 50.12.240 shall not be charged to the experience rating account of the contribution paying employer who provided the approved on-the-job training.

(j) Benefits paid resulting from a closure or severe curtailment of operations at the employer's plant, building, work site, or facility due to damage caused by fire, flood, or other natural disaster shall not be charged to the experience rating account of the employer if:

(i) The employer petitions for relief of charges; and

(ii) The commissioner approves granting relief of charges.

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, 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.

Passed the Senate February 11, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 28

[Senate Bill No. 6537]

EMPLOYMENT SECURITY DEPARTMENT—ADMINISTRATIVE DETERMINATIONS—APPLICATION IN OTHER ACTIONS

AN ACT Relating to actions of the employment security department; and adding a new section to chapter 50.32 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 50.32 RCW to read as follows:

Any finding, determination, conclusion, declaration, or final order made by the commissioner, or his or her representative or delegate, or by an appeal tribunal, administrative law judge, reviewing officer, or other agent of the department for the purposes of Title 50 RCW, shall not be conclusive, nor binding, nor admissible as evidence in any separate action outside the scope of Title 50 RCW between an individual and the individual's present or prior employer before an arbitrator, court, or judge of this state or the United States, regardless of whether the prior action was between the

same or related parties or involved the same facts or was reviewed pursuant to RCW 50.32.120.

Passed the Senate February 11, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 29

[House Bill No. 1504]
TRUSTS AND ESTATES

AN ACT Relating to trusts and estates; and amending RCW 11.28.340, 11.62.010, 11-.68.090, 11.76.090, 11.76.095, 11.96.070, 11.96.170, 11.98.110, 30.22.200, and 64.28.020.

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

Sec. 1. Section 32, chapter 117, Laws of 1974 ex. sess. as amended by section 7, chapter 234, Laws of 1977 ex. sess. and RCW 11.28.340 are each amended to read as follows:

Unless, within four months after the entry of the order adjudicating testacy or intestacy and heirship, and the mailing or service of the notice required in RCW 11.28.330 any heir, legatee or devisee of the decedent shall offer a later will for probate or contest an adjudication of testacy in the manner provided in this title for will contests, or offer a will of the decedent for probate following an adjudication of intestacy and heirship, or contesting the determination of heirship, an order adjudicating testacy or intestacy and heirship without appointing a personal representative to administer a decedent's estate shall, as to those persons by whom notice was waived or to whom said notice was mailed or on whom served, be deemed the equivalent of the entry of a final decree of distribution in accordance with the provisions of chapter 11.76 RCW for the purpose of:

(1) Establishing the decedent's will as his last will and testament and persons entitled to receive his estate thereunder; or

(2) Establishing the fact that the decedent died intestate, and those persons entitled to receive his estate as his heirs at law.

The right of an heir, legatee, or devisee to receive the assets of a decedent shall, to the extent otherwise provided by this title, be subject to the prior rights of the decedent's creditors and of any persons entitled to a homestead award or award in lieu of homestead or family allowance, and nothing contained in this section shall be deemed to alter or diminish such prior rights, or to prohibit any person for good cause shown, from obtaining the appointment of a personal representative to administer the estate of the decedent after the entry of an order adjudicating testacy or intestacy and heirship. However, if the petition for letters testamentary or of administration shall be filed more than four months after the date of the adjudication

of testacy or of intestacy and heirship, the issuance of such letters shall not affect the finality of said adjudications.

Any person paying, delivering, transferring, or issuing property to the person entitled thereto under an adjudication of testacy or intestacy and heirship that is deemed the equivalent of a final decree of distribution as set forth in this section is discharged and released to the same extent as if such person has dealt with a personal representative of the decedent.

Sec. 2. Section 4, chapter 117, Laws of 1974 ex. sess. as last amended by section 1, chapter 157, Laws of 1987 and RCW 11.62.010 are each amended to read as follows:

(1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ((~~ten thousand dollars~~)) the amount specified in RCW 6.12.050;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or

delivery thereof on the behalf and with the written authority of all other successors who have an interest therein.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) ((~~Upon receipt of notification from the inheritance tax division of the state department of revenue that an inheritance tax report is requested, the holder of any property subject to claim by a successor hereunder shall withhold payment, delivery, transfer or issuance of such property until provided with an inheritance tax release.~~)) No release from any Washington state or local taxing authority may be required before any assets or debts are paid or delivered to a successor of a decedent as required under this section.

Sec. 3. Section 7, chapter 30, Laws of 1985 and RCW 11.68.090 are each amended to read as follows:

Any personal representative acting under nonintervention powers may borrow money on the general credit of the estate and may mortgage, encumber, lease, sell, exchange, convey, and otherwise do anything a trustee may do under RCW 11.98.070 and chapters 11.100 and 11.102 RCW with regard to the assets of the estate, both real and personal, all without an order of court and without notice, approval, or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. Any party to any such transaction and his or her successors in interest shall be entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate. Except as otherwise specifically provided in this chapter or by order of court, chapter 11.76 RCW shall not apply to the administration of an estate by a personal representative acting under nonintervention powers.

Sec. 4. Section 11.76.090, chapter 145, Laws of 1965 as last amended by section 11, chapter 117, Laws of 1974 ex. sess. and RCW 11.76.090 are each amended to read as follows:

When a decree of distribution is made by the court in administration upon a decedent's estate and distribution is ordered to a person under the age of eighteen years, of ((~~a sum of one~~)) property having a value of five thousand dollars or less, the court, in such order of distribution, ((~~shall~~)) may order the same distributed or paid, for the use and as the property of said minor, to the person named in said order of distribution to receive the

same, without requiring bond or appointment of any guardian. This section shall not bar distribution under RCW 11.93.020(4).

Sec. 5. Section 11.76.095, chapter 145, Laws of 1965 as last amended by section 12, chapter 117, Laws of 1974 ex. sess. and RCW 11.76.095 are each amended to read as follows:

When a decree of distribution is made by the court in administration upon a decedent's estate or when distribution is made by a personal representative under a nonintervention will and distribution is ordered under such decree or authorized under such nonintervention will to a person under the age of eighteen years, ((~~the court shall require either~~)) it shall be required that:

(1) The money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the minor subject to withdrawal only upon the order of the court in the original probate proceeding, or upon said minor's attaining the age of eighteen years and furnishing proof thereof satisfactory to the depositary((~~, or~~));

(2) A general guardian shall be appointed and qualify and the money or property be paid or delivered to such guardian prior to the discharge of the personal representative in the original probate proceeding((~~: This section shall not bar distribution under RCW 11.76.090 as now or hereafter amended~~)); or

(3) The provisions of either RCW 11.76.090 or 11.93.020(4) are complied with.

Sec. 6. Section 8, chapter 31, Laws of 1985 and RCW 11.96.070 are each amended to read as follows:

A trustor, grantor, personal representative, trustee, or other fiduciary, creditor, devisee, legatee, heir, or trust beneficiary interested in the administration of a trust, or the attorney general in the case of a charitable trust under RCW 11.110.120, or of the estate of a decedent, incompetent, or disabled person, may have a judicial proceeding for the declaration of rights or legal relations in respect to the trust or estate:

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(2) To direct the personal representatives or trustees to do or abstain from doing any particular act in their fiduciary capacity;

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings;

(4) To confer upon the personal representatives or trustees any necessary or desirable powers not otherwise granted in the instrument or given by law that the court determines are not inconsistent with the provisions or purposes of the will or trust;

(5) To amend or conform the will or the trust instrument in the manner required to qualify the gift thereunder for the charitable estate tax deduction permitted by federal law, including the addition of mandatory

governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States internal revenue service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest; or

(6) To resolve any other matter in this title referencing this judicial proceedings section.

The provisions of this chapter apply to disputes arising in connection with estates of incompetents or disabled persons unless otherwise covered by chapters 11.88 and 11.92 RCW. The provisions of this chapter shall not supersede the otherwise applicable provisions and procedures of chapter 11.24, 11.28, 11.40, 11.52, 11.56, or 11.60 RCW with respect to any rights or legal obligations that are subject to those chapters.

Sec. 7. Section 18, chapter 31, Laws of 1985 and RCW 11.96.170 are each amended to read as follows:

(1) If ((~~the persons listed~~)), as to the matter in dispute, the trustor, grantor, all parties beneficially interested in the estate or trust with respect to such matter, and any current fiduciary of such estate or trust, who are also included in RCW 11.96.070 and ((~~those~~)) who are entitled to notice under RCW 11.96.100 and 11.96.110 agree on any matter listed in RCW 11.96.070 or any other matter in Title 11 RCW referencing this nonjudicial resolution procedure, then the agreement shall be evidenced by a written agreement executed by all necessary persons as provided in this section. Those persons may reach an agreement concerning a matter in RCW 11.96.070(4) as long as those persons, rather than the court, determine that the powers to be conferred are not inconsistent with the provisions or purposes of the will or trust.

(2) If necessary, the personal representative or trustee may petition the court for the appointment of a special representative to represent a person interested in the estate or trust who is a minor, incompetent, disabled, or who is yet unborn or unascertained, or a person whose identity or address is unknown. The special representative has authority to enter into a binding agreement on behalf of the person or beneficiary. The special representative may be appointed for more than one person or class of persons if the interests of such persons or class are not in conflict. Those entitled to receive notice for persons or beneficiaries described in RCW 11.96.110 may enter into a binding agreement on behalf of such persons or beneficiaries.

(3) The special representative shall be a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The special representative shall have no interest in any affected estate or trust, and shall not be related to any personal representative, trustee, beneficiary, or other person interested in the estate or trust. The special representative is entitled to reasonable

compensation for services which shall be paid from the principal of the estate or trust whose beneficiaries are represented. Upon execution of the written agreement, the special representative shall be discharged of any further responsibility with respect to the estate or trust.

(4) The written agreement or a memorandum summarizing the provisions of the written agreement may, at the option of any person interested in the estate or trust, be filed with the court having jurisdiction over the estate or trust. The person filing the agreement or memorandum shall within five days thereof mail a copy of the agreement and a notice of the filing to each person interested in the estate or trust whose address is known. Notice shall be in substantially the following form:

CAPTION OF CASE	NOTICE OF FILING OF AGREEMENT OR MEMORANDUM OF AGREEMENT

Notice is hereby given that the attached document was filed by the undersigned in the above entitled court on the ..... day of ....., 19... Unless you file a petition objecting to the agreement within 30 days of the above specified date the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust.

If you file and serve a petition within the period specified, you should ask the court to fix a time and place for the hearing on the petition and provide for at least a ten days' notice to all persons interested in the estate or trust.

DATED this ..... day of ....., 19...

.....
(Party to the agreement)

(5) Unless a person interested in the estate or trust files a petition objecting to the agreement within thirty days of the filing of the agreement or the memorandum, the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust. If all persons interested in the estate or trust waive the notice required by this section, the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust effective upon the date of filing.

Sec. 8. Section 54, chapter 30, Laws of 1985 and RCW 11.98.110 are each amended to read as follows:

As used in this section, a trust includes a probate estate, and a trustee includes a personal representative. The words "trustee" and "as trustee" mean "personal representative" and "as personal representative" where this section is being construed in regard to personal representatives.

Actions on contracts which have been transferred to a trust and on contracts made by a trustee, and actions in tort for personal liability incurred by a trustee in the course of administration may be maintained by the party in whose favor the cause of action has accrued as follows:

(1) The plaintiff may sue the trustee in the trustee's representative capacity and any judgment rendered in favor of the plaintiff is collectible by execution out of the trust property: PROVIDED, HOWEVER, If the action is in tort, collection shall not be had from the trust property unless the court determines in the action that (a) the tort was a common incident of the kind of business activity in which the trustee or the trustee's predecessor was properly engaged for the trust; or (b) that, although the tort was not a common incident of such activity, neither the trustee nor the trustee's predecessor, nor any officer or employee of the trustee or the trustee's predecessor, was guilty of personal fault in incurring the liability; or (c) that, although the tort did not fall within classes (a) or (b) above, it increased the value of the trust property. If the tort is within classes (a) or (b) above, collection may be had of the full amount of damage proved, and if the tort is within class (c) above, collection may be had only to the extent of the increase in the value of the trust property.

(2) If the action is on a contract made by the trustee, the trustee may be held personally liable on the contract, if personal liability is not excluded. Either the addition by the trustee of the words "trustee" or "as trustee" after the signature of a trustee to a contract or the transaction of business as trustee under an assumed name in compliance with chapter 19.80 RCW excludes the trustee from personal liability. If the action is on a contract transferred to the trust or trustee, subject to any rights therein vested at time of the transfer, the trustee is personally liable only if he or she has in writing assumed that liability.

(3) In any such action against the trustee in the trustee's representative capacity the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if the trustee had paid the plaintiff's claim.

(4) The trustee may also be held personally liable for any tort committed by him or her, or by his or her agents or employees in the course of their employments((~~, subject to the rights of exoneration or reimbursement:~~

~~(a) A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if (i) the tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust, or (ii) although the tort was not a common incident of such activity, if neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability;~~

~~(b) A trustee who commits a tort which increases the value of the trust property is entitled to exoneration or reimbursement with respect thereto to~~

~~the extent of such increase in value, even though the trustee would not otherwise be entitled to exoneration or reimbursement~~)) only if, and to the extent that, damages for the tort are not collectible from trust property as provided in and pursuant to subsection (1) of this section.

(5) The procedure for all actions provided in this section is as provided in chapter 11.96 RCW.

(6) Nothing in this section shall be construed to change the existing law with regard to the liability of the trustee of a charitable trust for the torts of the trustee.

Sec. 9. Section 20, chapter 192, Laws of 1981 and RCW 30.22.200 are each amended to read as follows:

In each case where it is provided in this chapter that payment may be made to the personal representative of the estate of a deceased depositor or trust or P.O.D. account beneficiary, financial institutions may make payment of the funds on deposit in a deceased depositor's or beneficiary's account to the personal representative of the decedent's estate appointed under the laws of any other state or territory or country after:

(1) At least ((~~ninety~~)) sixty days have elapsed since the date of the deceased depositor's death; and

(2) Upon receipt of the following:

(a) Proof of death of the deceased depositor or beneficiary;

(b) Proof of the appointment and continuing authority of the personal representative requesting payment; ((~~and~~))

(c) The personal representative's, or its agent's, affidavit to the effect that to the best of his or her knowledge no personal representative has been or will be appointed under the laws of this state; and

(d) Receipt of either an ((~~inheritance~~)) estate tax release from the department of revenue or the personal representative's, or its agent's, affidavit that the estate is not subject to Washington estate tax. However, if a personal representative of the deceased depositor's or beneficiary's estate is appointed and qualified as such under the laws of this state, and delivers proof of the appointment and qualification to the office or branch of the financial institution in which the deposit is maintained prior to the transmissions of the sums on deposit to the foreign personal representative, then the funds shall be paid to the personal representative of the deceased depositor's or beneficiary's estate who has been appointed and qualified in this state.

(3) The financial institution paying, delivering, transferring, or issuing funds on deposit in a deceased depositor's or beneficiary's account in accordance with the provisions of this section is discharged and released to the same extent as if such person has dealt with a personal representative of the decedent, unless at the time of such payment, delivery, transfer, or issuance such institution had actual knowledge of the falsity of any statement or affidavit required to be provided under this section. Such institution is not required to see to the application of funds, or to inquire into the truth of any

matter specified in any statement or affidavit required to be provided under this section.

Sec. 10. Section 2, chapter 2, Laws of 1961 and RCW 64.28.020 are each amended to read as follows:

(1) Every interest created in favor of two or more persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint tenancy, as provided in RCW 64.28.010, ((~~or unless acquired as community property~~)) or unless acquired by executors or trustees.

(2) Interests in common held in the names of a husband and wife, whether or not in conjunction with others, are presumed to be their community property.

(3) Subsection (2) of this section applies as of the effective date of this 1988 section, to all existing or subsequently created interests in common.

Passed the House February 10, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 30

[Senate Bill No. 5451]

PASSENGER CHARTER CARRIERS

AN ACT Relating to passenger charter carriers; amending RCW 81.70.020; adding new sections to chapter 81.70 RCW; and repealing RCW 81.70.040, 81.70.050, 81.70.060, 81.70-.070, 81.70.080, 81.70.090, 81.70.095, 81.70.100, 81.70.110, 81.70.120, 81.70.130, 81.70.140, 81.70.150, 81.70.160, 81.70.170, 81.70.180, [illegible]70.190, 81.70.200, 81.70.210, 81.70.900, and 81.70.910.

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

Sec. 1. Section 3, chapter 150, Laws of 1965 as amended by section 1, chapter 132, Laws of 1969 and RCW 81.70.020 are each amended to read as follows:

Unless the context otherwise requires, the definitions and general provisions set forth in this section shall govern the construction of this chapter:

(1) "Commission" means the Washington utilities and transportation commission;

(2) "Person or persons" means an individual, a corporation, association, joint stock association, and partnership, their lessees, trustees or receivers;

(3) "Public highway" includes every public street, road or highway in this state;

(4) "Motor vehicle" means every self-propelled vehicle with seating capacity for seven or more persons, excluding the driver;

(5) Subject to the exclusions of RCW 81.70.030, "charter party carrier of passengers" means every person engaged in the transportation of ((~~persons by motor vehicle for compensation whether in common or contract carriage over any public highway in this state~~)) a group of persons, who, pursuant to a common purpose and under a single contract, have acquired the use of a motor bus to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

NEW SECTION. Sec. 2. No person may engage in the business of a charter party carrier of persons over any public highway without first having obtained a certificate from the commission to do so.

NEW SECTION. Sec. 3. (1) Applications for certificates shall be made to the commission in writing, verified under oath, and shall be in such form and contain such information as the commission by regulation may require. Every such application shall be accompanied by a fee as the commission may prescribe by rule.

(2) A certificate shall be issued to any qualified applicant authorizing, in whole or in part, the operations covered by the application if it is found that the applicant is fit, willing, and able to perform properly the service and to conform to the provisions of this chapter and the rules and regulations of the commission.

(3) Before a certificate is issued, the commission shall require the applicant to establish safety fitness and proof of minimum financial responsibility as provided in this chapter.

NEW SECTION. Sec. 4. No certificate issued under this chapter or rights to conduct services under it may be leased, assigned, or otherwise transferred or encumbered, unless authorized by the commission.

NEW SECTION. Sec. 5. The commission may cancel, revoke, or suspend any certificate issued under this chapter on any of the following grounds:

(1) The violation of any of the provisions of this chapter;

(2) The violation of an order, decision, rule, regulation, or requirement established by the commission pursuant to this chapter;

(3) Failure of a charter party carrier of passengers to pay a fee imposed on the carrier within the time required by law;

(4) Failure of a charter party carrier to maintain required insurance coverage in full force and effect; or

(5) Failure of the certificate holder to operate and perform reasonable service.

NEW SECTION. Sec. 6. After the cancellation or revocation of a certificate or during the period of its suspension, it is unlawful for a charter party carrier of passengers to conduct any operations as such a carrier.

NEW SECTION. Sec. 7. It is the duty of the commission to regulate charter party carriers with respect to safety of equipment, driver qualifications, and safety of operations. The commission shall establish such rules and regulations and require such reports as are necessary to carry out the provisions of this chapter.

NEW SECTION. Sec. 8. (1) In granting certificates under this chapter, the commission shall require charter party carriers of passengers to procure and continue in effect during the life of the certificate, liability and property damage insurance from a company licensed to make liability insurance in the state of Washington or a surety bond of a company licensed to write surety bonds in the state of Washington on each motor-propelled vehicle used or to be used in transporting persons for compensation, in the following amounts:

(a) Not less than one hundred thousand dollars for any recovery for personal injury by one person; and

(b) Not less than three hundred thousand dollars for any vehicle having a capacity of sixteen passengers or less; and

(c) Not less than five hundred thousand dollars for any vehicle having a capacity of seventeen passengers or more for all receiving personal injury by reason of at least one act of negligence; and

(d) Not less than fifty thousand dollars for damage to property of any person other than the insured.

(2) The commission shall fix the amount of the insurance policy or policies or security deposit giving consideration to the character and amount of traffic, the number of persons affected, and the degree of danger which the proposed operation involves. Such liability and property damage insurance or surety bond shall be maintained in force on each motor-propelled vehicle while so used. Each policy for liability or property damage insurance or surety bond required herein shall be filed with the commission and kept in effect and a failure so to do is cause for revocation of the certificate.

NEW SECTION. Sec. 9. A charter party carrier of passengers authorized to transport persons for compensation on the highways and engaging in interstate, or interstate and intrastate, operations within the state of Washington which is or becomes qualified as a self-insurer with the interstate commerce commission of the United States in accordance with the United States interstate commerce act applicable to self-insurance by motor carriers is exempt from section 8 of this act relating to the carrying or filing of insurance policies or bonds in connection with such operations as long as such qualification remains effective.

The commission may require proof of the existence and continuation of qualification with the interstate commerce commission to be made by affidavit of the charter party carrier in a form the commission may prescribe.

NEW SECTION. Sec. 10. In all respects in which the commission has power and authority under this chapter, applications and complaints may be made and filed with it, process issued by it, hearings held, opinions, orders, and decisions made and filed, petitions for rehearing filed and acted upon, petitions for writs of review filed with the superior court, appeals or mandates filed with the supreme court or the court of appeals of this state, and may be considered and disposed of by said courts in a manner, under the conditions, subject to the limitations, and with the effect specified in this chapter.

NEW SECTION. Sec. 11. All applicable provisions of this title relating to procedure, powers of the commission, and penalties shall apply to the operation and regulation of persons under this chapter, except as those provisions may conflict with the provisions of this chapter and rules and regulations issued thereunder by the commission.

NEW SECTION. Sec. 12. (1) An application for a certificate or amendment thereof, or application to sell, lease, mortgage, or transfer a certificate, shall be accompanied by such filing fees as the commission may prescribe by rule, however the fee shall not exceed two hundred dollars.

(2) All fees paid to the commission under this chapter shall be deposited in the state treasury to the credit of the public service revolving fund.

(3) It is the intent of the legislature that all fees collected under this chapter shall reasonably approximate the cost of supervising and regulating charter party carriers subject thereto, and to that end the commission is authorized to decrease the schedule of fees provided for in section 15 of this act by general order entered before November 1 of any year in which the commission determines that the moneys then in the charter party carrier account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers during the succeeding calendar year. Whenever the cost accounting records of the commission indicate that the schedule of fees previously reduced should be increased, such increase, not in any event to exceed the schedule set forth in this chapter, may be effected by a similar general order entered before November 1 of any calendar year.

NEW SECTION. Sec. 13. It is unlawful for a charter party carrier to operate a motor bus upon the highways of this state unless there is firmly affixed to the vehicle on both sides thereof, the name of the carrier and the certificate or permit number of such carrier. The characters composing such identification shall be of sufficient size to be clearly distinguishable at a distance of at least fifty feet from the vehicle.

NEW SECTION. Sec. 14. It is unlawful for a charter party carrier of passengers engaged in interstate or foreign commerce to use any of the public highways of this state for the transportation of passengers in interstate or foreign commerce, unless such carrier has identified its vehicles and

registered its interstate or foreign operations with the commission. Interstate and foreign carriers possessing operating authority issued by the interstate commerce commission shall register such authority pursuant to Public Law 89–170, as amended, and the regulations of the interstate commerce commission adopted thereunder. Interstate and foreign charter party carriers of passengers exempt from regulation by the interstate commerce commission shall register their interstate operations under regulations adopted by the commission, which shall, to the maximum extent practical, conform to the regulations promulgated by the interstate commerce commission under Public Law 89–170, as amended. All other provisions of this chapter shall be applicable to motor carriers of passengers engaged in interstate or foreign commerce insofar as the same are not prohibited under the Constitution of the United States or federal statute.

NEW SECTION. Sec. 15. (1) The commission shall collect from each charter party carrier holding a certificate issued pursuant to this chapter and from each interstate carrier subject to this chapter an annual regulatory fee, to be established by the commission but which in total shall not exceed the cost of supervising and regulating such carriers, for each bus used by such carrier.

(2) All fees prescribed by this section shall be due and payable on or before December 31 of each year, to cover the ensuing year beginning February 1.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) Section 5, chapter 150, Laws of 1965, section 2, chapter 132, Laws of 1969 and RCW 81.70.040;

(2) Section 6, chapter 150, Laws of 1965, section 3, chapter 132, Laws of 1969 and RCW 81.70.050;

(3) Section 7, chapter 150, Laws of 1965, section 4, chapter 132, Laws of 1969, section 6, chapter 115, Laws of 1973 and RCW 81.70.060;

(4) Section 8, chapter 150, Laws of 1965, section 5, chapter 132, Laws of 1969 and RCW 81.70.070;

(5) Section 9, chapter 150, Laws of 1965, section 6, chapter 132, Laws of 1969 and RCW 81.70.080;

(6) Section 10, chapter 150, Laws of 1965, section 7, chapter 132, Laws of 1969 and RCW 81.70.090;

(7) Section 8, chapter 132, Laws of 1969, section 7, chapter 115, Laws of 1973 and RCW 81.70.095;

(8) Section 11, chapter 150, Laws of 1965, section 9, chapter 132, Laws of 1969, section 8, chapter 115, Laws of 1973 and RCW 81.70.100;

(9) Section 12, chapter 150, Laws of 1965, section 10, chapter 132, Laws of 1969 and RCW 81.70.110;

(10) Section 13, chapter 150, Laws of 1965, section 11, chapter 132, Laws of 1969 and RCW 81.70.120;

(11) Section 14, chapter 150, Laws of 1965, section 12, chapter 132, Laws of 1969 and RCW 81.70.130;

(12) Section 15, chapter 150, Laws of 1965 and RCW 81.70.140;

(13) Section 16, chapter 150, Laws of 1965, section 13, chapter 132, Laws of 1969 and RCW 81.70.150;

(14) Section 17, chapter 150, Laws of 1965 and RCW 81.70.160;

(15) Section 18, chapter 150, Laws of 1965, section 107, chapter 136, Laws of 1979 ex. sess. and RCW 81.70.170;

(16) Section 19, chapter 150, Laws of 1965, section 14, chapter 132, Laws of 1969, section 2, chapter 48, Laws of 1977 ex. sess. and RCW 81.70.180;

(17) Section 20, chapter 150, Laws of 1965 and RCW 81.70.190;

(18) Section 21, chapter 150, Laws of 1965, section 15, chapter 132, Laws of 1969 and RCW 81.70.200;

(19) Section 22, chapter 150, Laws of 1965 and RCW 81.70.210;

(20) Section 23, chapter 150, Laws of 1965 and RCW 81.70.900; and

(21) Section 24, chapter 150, Laws of 1965 and RCW 81.70.910.

NEW SECTION. Sec. 17. Sections 2 through 15 of this act are each added to chapter 81.70 RCW.

Passed the Senate February 8, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 31

[Substitute Senate Bill No. 5844]
COMMON CARRIER FREIGHT BROKERS

AN ACT Relating to motor carrier freight brokers; amending RCW 81.80.010; adding a new section to chapter 81.80 RCW; and prescribing penalties.

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

Sec. 1. Section 81.80.010, chapter 14, Laws of 1961 as last amended by section 1, chapter 71, Laws of 1982 and RCW 81.80.010 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Person" means and includes an individual, firm, copartnership, corporation, company, or association or their lessees, trustees, or receivers.

(2) "Motor vehicle" means any truck, trailer, semitrailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail, and express transported on the vehicles of auto transportation companies carrying passengers.

(3) "Public highway" means every street, road, or highway in this state.

(4) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water ((~~and of express or forwarding companies~~)).

(5) "Contract carrier" includes all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in paragraph (4) and paragraph (6), and further includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(6) A "private carrier" is a person who transports by his own motor vehicle, with or without compensation therefor, property which is owned or is being bought or sold by such person, or property of which such person is the seller, purchaser, lessee, or bailee where such transportation is incidental to and in furtherance of some other primary business conducted by such person in good faith.

(7) "Motor carrier" means and includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as herein defined.

(8) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

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

(10) "Commercial zone" means an area encompassing one or more cities or towns and environs adjacent thereto established pursuant to RCW 81.80.400 ((~~as now or hereafter amended~~)).

(11) "Terminal area" means an area including one or more cities or towns and environs adjacent thereto established pursuant to RCW 81.80-.400 ((~~as now or hereafter amended~~)).

(12) "((~~Common carrier" and "contract carrier" include persons~~)) Broker" is a person engaged in the business of providing, contracting for, or undertaking to ((~~provide~~)) arrange for transportation of property ((~~for compensation over the public highways of the state of Washington as brokers or forwarders~~)) by two or more interstate or intrastate common carriers.

NEW SECTION. Sec. 2. A new section is added to chapter 81.80 RCW to read as follows:

(1) Each broker shall file with the commission and keep in effect, a surety bond or deposit of satisfactory security, in a sum to be determined by the commission, but not less than five thousand dollars, conditioned upon such broker making compensation to shippers, consignees, and carriers for

all moneys belonging to them and coming into the broker's possession in connection with the transportation service.

(2) It is unlawful for a broker to conduct business as such in this state without first securing appropriate authority from the Interstate Commerce Commission, if such authority is required, and registering with the Washington utilities and transportation commission. The commission shall grant such registration without hearing, upon application and payment of the appropriate filing fee prescribed by this chapter for other applications for operating authority.

(3) Failure to file the bond or deposit the security is sufficient ground for refusal of the commission to grant the application for a permit. Failure to promptly make the remittances provided for in this section and in rules of the commission is sufficient cause for cancellation of a permit.

Passed the Senate February 9, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 32

[Engrossed Senate Bill No. 5953]

COMMUNITY COLLEGE TENURED FACULTY—REDUCED WORK LOADS

AN ACT Relating to reduced work load options for certain tenured community college faculty members; amending RCW 28B.50.851; and adding a new section to chapter 28B.50 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.50 RCW to read as follows:

An appointing authority may allow a tenured faculty member to retain tenure upon assignment to a reduced work load. The appointing authority and the faculty member shall execute a written agreement setting forth the terms and conditions of the assignment, including the conditions, if any, under which the faculty member may return to full time employment.

Sec. 2. Section 33, chapter 283, Laws of 1969 ex. sess. as last amended by section 1, chapter 112, Laws of 1975 1st ex. sess. and RCW 28B.50.851 are amended to read as follows:

As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2) (a) "Faculty appointment", except as otherwise provided in subsection (2)(b) below, shall mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority,

except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian; faculty appointment shall also mean employment on a reduced work load basis when a faculty member has retained tenure under section 1 of this 1987 act;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in subsection (2)(a) of this section, when such employment results from special funds provided to a community college district from federal moneys or other special funds which other funds are designated as "special funds" by the state board for community college education: PROVIDED, That such "special funds" so designated by the state board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: PROVIDED FURTHER, That ((~~a "faculty appointee" holding a faculty appointment pursuant to subsections (1) or (2)(a) who has been subsequently transferred to a position financed from "special funds" pursuant to subsection (2)(b) and who thereafter loses his position upon reduction or elimination of such "special funding" shall be entitled to be returned to his previous status as a faculty appointee pursuant to subsection (1) or (2)(a) depending upon his~~)) "faculty appointees" holding faculty appointments pursuant to subsections (1) or (2) (a) who have been subsequently transferred to positions financed from "special funds" pursuant to subsection (2) (b) and who thereafter lose their positions upon reduction or elimination of such "special funding" shall be entitled to be returned to previous status as faculty appointees pursuant to subsection (1) or (2) (a) depending upon their status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a community college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers, a student representative, and the administrative staff of the community college: PROVIDED, That the majority of the committee shall consist of the probationer's faculty peers.

Passed the Senate February 9, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 33

[Substitute Senate Bill No. 6096]
EQUITY SKIMMING—CLASS B FELONY

AN ACT Relating to real estate loans made by financial institutions; amending RCW 9A.82.010; adding a new chapter to Title 61 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that persons are engaging in patterns of conduct which defraud innocent homeowners of their equity interest or other value in residential dwellings under the guise of a purchase of the owner's residence but which is in fact a device to convert the owner's equity interest or other value in the residence to an equity skimmer, who fails to make payments, diverts the equity or other value to the skimmer's benefit, and leaves the innocent homeowner with a resulting financial loss or debt.

The legislature further finds this activity of equity skimming to be contrary to the public policy of this state and therefore establishes the crime of equity skimming to address this form of real estate fraud and abuse.

NEW SECTION. Sec. 2. Any person who wilfully engages in a pattern of equity skimming is guilty of a class B felony under RCW 9A.20.021. Equity skimming shall be classified as a level II offense under chapter 9.94A RCW, and each act of equity skimming found beyond a reasonable doubt or admitted by the defendant upon a plea of guilty to be included in the pattern of equity skimming, shall be a separate current offense for the purpose of determining the sentence range for each current offense pursuant to RCW 9.94A.400(1)(a).

NEW SECTION. Sec. 3. In addition to the criminal penalties provided in section 2 of this act, the legislature finds and declares that equity skimming substantially affects the public interest. The commission by any person of an act of equity skimming or a pattern of equity skimming is an

unfair or deceptive act or practice and unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020.

NEW SECTION. Sec. 4. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Pattern of equity skimming" means engaging in a least three acts of equity skimming within any three-year period, with at least one of the acts occurring after the effective date of this section.

(2) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.

(3) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.

(4) An "act of equity skimming" occurs when:

(a)(i) A person purchases a dwelling with the representation that the purchaser will pay for the dwelling by assuming the obligation to make payments on existing mortgages, deeds of trust, or real estate contracts secured by and pertaining to the dwelling, or by representing that such obligation will be assumed; and

(ii) The person fails to make payments on such mortgages, deeds of trust, or real estate contracts as the payments become due, within two years subsequent to the purchase; and

(iii) The person diverts value from the dwelling by either (A) applying or authorizing the application of rents from the dwelling for the person's own benefit or use, or (B) obtaining anything of value from the sale or lease with option to purchase of the dwelling for the person's own benefit or use, or (C) removing or obtaining appliances, fixtures, furnishings, or parts of such dwellings or appurtenances for the person's own benefit or use without replacing the removed items with items of equal or greater value; or

(b)(i) The person purchases a dwelling in a transaction in which all or part of the purchase price is financed by the seller and is (A) secured by a lien which is inferior in priority or subordinated to a lien placed on the dwelling by the purchaser, or (B) secured by a lien on other real or personal property, or (C) without any security; and

(ii) The person obtains a superior priority loan which either (A) is secured by a lien on the dwelling which is superior in priority to the lien of the seller, but not including a bona fide assumption by the purchaser of a loan existing prior to the time of purchase, or (B) creating any lien or encumbrance on the dwelling when the seller does not hold a lien on the dwelling; and

(iii) The person fails to make payments or defaults on the superior priority loan within two years subsequent to the purchase; and

(iv) The person diverts value from the dwelling by applying or authorizing any part of the proceeds from such superior priority loan for the person's own benefit or use.

Sec. 5. Section 1, chapter 270, Laws of 1984 as last amended by section 1, chapter 78, Laws of 1986 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;

(u) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;

(v) Arson, as defined in RCW 9A.48.020 and 9A.48.030; ((or))

(w) Assault, as defined in RCW ((~~9A.36.010 and 9A.36.020~~)) 9A.36-.011 and 9A.36.021; or

(x) A pattern of equity skimming, as defined in section 4 of this 1988 act.

(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.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 7. Sections 1 through 4 of this act shall constitute a new chapter in Title 61 RCW.

NEW SECTION. Sec. 8. Section 5 of this act shall take effect July 1, 1988.

Passed the Senate January 25, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 34

[Senate Bill No. 6113]

QUASI-COMMUNITY PROPERTY

AN ACT Relating to quasi-community property; amending RCW 26.16.220, 26.16.230, 26.16.240, and 26.16.250; and declaring an emergency.

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

Sec. 1. Section 1, chapter 72, Laws of 1986 and RCW 26.16.220 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, as used in RCW 26-.16.220 through 26.16.250 "quasi-community property" means all personal property wherever situated and all real property ((~~situated in this state~~)) described in subsection (2) of this section that is not community property and that was heretofore or hereafter 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 includes:

(a) Real property situated in this state;

(b) Real property situated outside this state if the law of the state where the real property is located provides that the law of the decedent's domicile at death shall govern the rights of the decedent's surviving spouse to a share of such property; and

(c) Leasehold interests in real property described in (a) or (b) of this subsection.

(3) For purposes of this section, all legal presumptions and principles applicable to the proper characterization of property as community property under the laws and decisions of this state shall apply in determining whether property would have been the community property of the decedent and the surviving spouse under the provisions of subsection (1) of this section.

Sec. 2. Section 2, chapter 72, Laws of 1986 and RCW 26.16.230 are each amended to read as follows:

Upon the death of any person domiciled in this state, one-half of ((~~the decedent's~~)) any 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 at death by the decedent, and in the

absence thereof, shall descend in the manner provided for community property under chapter 11.04 RCW.

Sec. 3. Section 3, chapter 72, Laws of 1986 and RCW 26.16.240 are each amended to read as follows:

(1) If a decedent domiciled in this state on the date of his or her death made a lifetime transfer of a property interest that is 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 interest, if the transferee retains the property interest, 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 interest;

(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~~)) property interest for the decedent's own benefit; or

(c) The decedent held the property interest at the time of death with another with the right of survivorship.

(2) Notwithstanding subsection (1) (((~~(a), (b), and (c)~~))) of this section, ((~~a~~)) no such property interest, proceeds, or value may be required to be restored to the decedent's estate if:

(a) Such property interest was transferred for adequate consideration;

(b) Such property interest was transferred with the consent of the surviving spouse; or

(c) The transferee ((~~who purchases~~)) purchased such property ((~~or an~~)) interest in property from ((~~a~~)) the decedent ((~~for value~~)) while believing in good faith that ((~~such~~)) the property ((~~is~~)) or property interest was the separate property of the decedent and ((~~does~~)) did not constitute quasi-community property ((~~shall not be required to restore property, proceeds, or value to the decedent's estate under this provision~~)).

(((~~(2)~~))) (3) All property interests, proceeds, or value restored to the decedent's estate under this section shall belong to the surviving spouse pursuant to RCW 26.16.230 as though the transfer had never been made.

(((~~(3)~~))) (4) 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.

Sec. 4. Section 4, chapter 72, Laws of 1986 and RCW 26.16.250 are each amended to read as follows:

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, wherever executed, before or after June 11, 1986, including without limitation, community property agreements, prenuptial and postnuptial agreements, or agreements as to status of property.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate January 27, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 35

[Substitute Senate Bill No. 6290]
WASHINGTON AMBASSADOR PROGRAM

AN ACT Relating to the Washington ambassador program; amending RCW 43.31.373, 43.31.377, 43.31.379, 43.31.381, 43.131.315, and 43.131.316; and repealing RCW 43.31.389.

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

Sec. 1. Section 1, chapter 175, Laws of 1984 as amended by section 24, chapter 466, Laws of 1985 and RCW 43.31.373 are each amended to read as follows:

The Washington state legislature finds that there are various nations, and states within this country, that may not be fully aware of the competitive products and services, and opportunities for investment, available in the state of Washington. The legislature further finds that the cost to the state of maintaining numerous offices and employees ((~~abroad~~)) outside this state to promote the products, services, and investment opportunities available in this state may be prohibitive. The legislature finds that there are numerous opportunities within the state, domestically and internationally, to utilize individuals to promote investment and economic development in Washington. The legislature recognizes the value in having the private sector work in partnership with state agencies involved in economic development efforts.

The legislature further recognizes that there are numerous distinguished and civic minded individuals residing in this state as well as citizens of the United States and other nations who have a broad knowledge of this state and its products. The legislature acknowledges that certain of these individuals may be willing to act as Washington ambassadors for the state of Washington.

Sec. 2. Section 3, chapter 175, Laws of 1984 as amended by section 26, chapter 466, Laws of 1985 and RCW 43.31.377 are each amended to read as follows:

There is established within the department the Washington ambassador program. The ambassador program shall be conducted in conjunction with state-wide private sector efforts consistent with and supportive of the state's overall economic development program.

The department in administering the program, shall:

(1) Identify candidate ambassadors by accepting recommendations and soliciting referrals from Washington state businesses having extensive domestic or overseas trade involvement, state universities with foreign student exchange programs, local economic development organizations, internationally oriented societies and trade groups, international consulates, various levels of government, and other sources((;));

(2) Screen applicants to determine their suitability to ably represent the state as Washington ambassadors((~~, including:~~

~~(a) Making formal inquiry to the United States commercial attache in the appropriate United States embassy or consulate general;~~

~~(b) Conducting background research and reference evaluation as necessary to ensure that the applicant is a distinguished and respected member of his or her profession~~));

(3) Make its report and recommendations to the governor and the president of the senate regarding applicants;

(4) Provide a comprehensive orientation on state products and services and opportunities for investment in the state on an ongoing basis to ambassadors;

(5) Prepare and provide the necessary brochures, pamphlets, and materials for use and distribution by ambassadors;

(6) Target those regions and countries in which an ambassador would be most beneficial; and

(7) Assist the ambassadors in the execution of their duties including providing guidance on developing trade and investment leads and acting as a focal point for all resulting communications between domestic and international companies and individuals with the state.

The department may administer the Washington ambassador program in conjunction with other similar programs.

Sec. 3. Section 4, chapter 175, Laws of 1984 as amended by section 27, chapter 466, Laws of 1985 and RCW 43.31.379 are each amended to read as follows:

Washington ambassadors shall be appointed by the governor, with approval by the president of the senate, from recommendations submitted by the director of trade and economic development. Upon appointment, a Washington ambassador shall receive from the governor an official certificate and letter of appointment ((~~and the state flag~~)). These ((~~articles~~)) documents may be used by the ambassador in the conduct of his or her official duties. The term of service shall be for two years and is automatically renewable unless otherwise revoked by the department.

Sec. 4. Section 5, chapter 175, Laws of 1984 as amended by section 28, chapter 466, Laws of 1985 and RCW 43.31.381 are each amended to read as follows:

Washington ambassadors shall act as representatives of the state in promoting domestic and international investment, trade, business assistance, and tourism in Washington state in a manner consistent with this chapter.

The department shall coordinate the development of the ambassadors' agendas and long-term and short-term plans for the activities of the ambassadors. An ambassador shall avoid conducting private or personal business when acting as a representative of the state of Washington. In any situation presenting a possible or apparent conflict of interest, the ambassador shall notify the director who shall recommend appropriate action. Washington ambassadors shall not receive compensation, or reimbursement for travel or any other expenses associated with their duties.

Sec. 5. Section 12, chapter 175, Laws of 1984 as amended by section 72, chapter 466, Laws of 1985 and RCW 43.131.315 are each amended to read as follows:

The Washington ambassador program shall be ((~~reviewed under the process provided in chapter 43.131 RCW before December 1, 1987. Unless extended by law, the program shall be~~)) terminated on June 30, ((~~1988~~)) 1992, as provided in RCW 43.131.316.

Sec. 6. Section 13, chapter 175, Laws of 1984 as amended by section 73, chapter 466, Laws of 1985 and RCW 43.131.316 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~~)) 1993:

(1) Section 1, chapter 175, Laws of 1984, section 24, chapter 466, Laws of 1985, section 1 of this 1988 act and RCW 43.31.373;

(2) Section 2, chapter 175, Laws of 1984, section 25, chapter 466, Laws of 1985 and RCW 43.31.375;

(3) Section 3, chapter 175, Laws of 1984, section 26, chapter 466, Laws of 1985, section 2 of this 1988 act and RCW 43.31.377;

(4) Section 4, chapter 175, Laws of 1984, section 27, chapter 466, Laws of 1985, section 3 of this 1988 act and RCW 43.31.379;

(5) Section 5, chapter 175, Laws of 1984, section 28, chapter 466, Laws of 1985, section 4 of this 1988 act and RCW 43.31.381;

(6) Section 6, chapter 175, Laws of 1984, section 29, chapter 466, Laws of 1985 and RCW 43.31.383; and

(7) ((~~Section 7, chapter 175, Laws of 1984, section 30, chapter 466, Laws of 1985 and RCW 43.31.385;~~

~~(8)~~)) Section 8, chapter 175, Laws of 1984, section 31, chapter 466, Laws of 1985 and RCW 43.31.387((~~; and~~

~~(9) Section 32, chapter 466, Laws of 1985 and RCW 43.31.389~~)).

NEW SECTION. Sec. 7. Section 32, chapter 466, Laws of 1985 and RCW 43.31.389 are each repealed.

Passed the Senate February 3, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 36

[Senate Bill No. 6375]

OBSOLETE STATUTORY REFERENCES CORRECTED

AN ACT Relating to obsolete statutory references; and amending RCW 9.41.070, 9.41.090, 9.41.185, 9.41.310, 10.93.020, 15.85.060, 16.68.190, 17.21.230, 36.61.040, 36.61.050, 38.52.420, 39.04.150, 42.17.2401, 43.19.450, 43.21A.170, 43.51.340, 43.51.943, 43.52.350, 43.81.010, 43.82.010, 43.99.110, 43.99G.020, 43.220.020, 43.220.120, 46.09.170, 46.10.220, 46.16.605, 70.105.020, 72.63.020, 72.63.030, 75.08.020, 75.20.050, 75.20.100, 75.20.103, 75.20.106, 75.20.110, 75.20.130, 75.20.300, 75.20.310, 75.48.120, 72.52.010 [75.52.010], 75.52.020, 75.58.010, 75.58.030, 75.58.040, 76.09.040, 76.09.050, 76.09.180, 76.48.040, 77.12.055, 77.16.170, 77.32.380, 79.66.080, 79.70.030, 79.70.070, 79.70.080, 79.72.020, 79.72.070, 79.72.100, 80.50.030, 82.27.070, 84.34.055, 86.26.040, 86.26.050, 90.03.280, 90.03.290, 90.24.030, 90.24.060, 90.48.142, 90.48.170, 90.62.020, 90.70.045, and 91.14.100.

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

Sec. 1. Section 7, chapter 172, Laws of 1935 as last amended by section 3, chapter 428, Laws of 1985 and RCW 9.41.070 are each amended to read as follows:

(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the

issuing authority shall have up to sixty days after the filing of the application to issue a license. Such citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or

(b) Is under twenty-one years of age; or

(c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

(d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or

(e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor.

The license shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years. The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license application shall contain a warning substantially as follows:

> CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

(2) The fee for the original issuance of a four-year license shall be twenty dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed; and

(c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(3) The fee for the renewal of such license shall be twelve dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund; and

(b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(4) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (3) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state ((~~game~~)) wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(5) Notwithstanding the requirements of subsections (1) through (4) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.

Sec. 2. Section 9, chapter 172, Laws of 1935 as last amended by section 4, chapter 428, Laws of 1985 and RCW 9.41.090 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no commercial seller shall deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the commercial seller has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (4) of this section; or

(b) The seller is notified in writing by the chief of police of the municipality or the sheriff of the county that the purchaser meets the requirements of RCW 9.41.040 and that the application to purchase is granted; or

(c) Five consecutive days including Saturday, Sunday and holidays have elapsed from the time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection (4) of this section, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days.

(2) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the seller shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the seller so that the hold may be released if the warrant was for a crime other than a crime of violence.

(3) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for a crime of violence, or (e) an arrest for a crime of violence if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. An applicant shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(4) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the seller an application containing his or her full name, address, place of birth, and the date and hour of the application; the applicant's driver's license number or state identification card number; and a description of the weapon including, the make, model, caliber and manufacturer's number; and a statement that the purchaser is eligible to own a pistol under RCW 9.41.040. The application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of ((~~game~~)) wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The seller shall, by the end of the business day, sign and attach his or her address and deliver the original of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the seller is a resident. The seller shall deliver the pistol to the purchaser following the period of time specified in this section unless the seller is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser fails to meet the requirements specified in RCW 9.41.040. The chief of police of the municipality or the county sheriff shall maintain a file containing the original of the application to purchase a pistol.

Sec. 3. Section 1, chapter 46, Laws of 1965 and RCW 9.41.185 are each amended to read as follows:

The use of "coyote getters" or similar spring-triggered shell devices shall not constitute a violation of any of the laws of the state of Washington when the use of such "coyote getters" is authorized by the state department of agriculture and/or the state department of ((~~game~~)) wildlife in cooperative programs with the United States Fish and Wildlife Service, for the purpose of controlling or eliminating coyotes harmful to livestock and game animals on range land or forest areas.

Sec. 4. Section 5, chapter 428, Laws of 1985 and RCW 9.41.310 are each amended to read as follows:

After a public hearing, the department of ((~~game~~)) wildlife shall publish a pamphlet on firearms safety and the legal limits of the use of firearms. The pamphlet shall include current information on firearms laws and regulations and state preemption of local firearms laws. This pamphlet may be used in the department's hunter safety education program and shall be provided to the department of licensing for distribution to firearms dealers and persons authorized to issue concealed pistol licenses. The department of ((~~game~~)) wildlife shall reimburse the department of licensing for costs associated with distribution of the pamphlet.

Sec. 5. Section 2, chapter 89, Laws of 1985 and RCW 10.93.020 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) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol is a general authority Washington law enforcement agency.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, fisheries, ((~~game~~)) wildlife, and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency

on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

Sec. 6. Section 5, chapter 457, Laws of 1985 and RCW 15.85.060 are each amended to read as follows:

The director shall establish identification requirements for private sector cultured aquatic products to the extent that identifying the source and quantity of the products is necessary to permit the departments of fisheries and ((~~game~~)) wildlife to administer and enforce Titles 75 and 77 RCW effectively. The rules shall apply only to those private sector cultured aquatic products the transportation, sale, processing, or other possession of which would otherwise be required to be licensed under Title 75 or 77 RCW if they were not cultivated by aquatic farmers. The rules shall apply to the transportation or possession of such products on land other than aquatic lands and may require that they be: (1) Placed in labeled containers or accompanied by bills of lading or sale or similar documents identifying the name and address of the producer of the products and the quantity of the

products governed by the documents; or (2) both labeled and accompanied by such documents.

The director shall consult with the directors of the departments of fisheries and ((~~game~~)) wildlife to ensure that such rules enable the departments of fisheries and ((~~game~~)) wildlife to enforce the programs administered under those titles. If rules adopted under chapter 69.30 RCW satisfy the identification required under this section for shellfish, the director shall not establish different shellfish identification requirements under this section.

Sec. 7. Section 18A, chapter 100, Laws of 1949 and RCW 16.68.190 are each amended to read as follows:

Nothing in this chapter shall prohibit the state ((~~game~~)) department of wildlife from using the carcasses of dead animals for trap bait in their regular trapping operations.

Sec. 8. Section 23, chapter 249, Laws of 1961 as last amended by section 1, chapter 20, Laws of 1974 ex. sess. and RCW 17.21.230 are each amended to read as follows:

There is hereby created a pesticide advisory board consisting of three licensed pesticide applicators residing in the state (one shall be licensed to operate ground apparatus, one shall be licensed to operate aerial apparatus, and one shall be licensed for structural pest control), one licensed pest control consultant, one licensed pesticide dealer manager, one entomologist in public service, one toxicologist in public service, one plant pathologist in public service, one member from the agricultural chemical industry, one member from the food processing industry, and two producers of agricultural crops or products on which pesticides are applied or which may be affected by the application of pesticides. Such members shall be appointed by the governor for terms of four years and may be appointed for successive four year terms at the discretion of the governor. The governor may remove any member of the board prior to the expiration of his term of appointment for cause. The board shall also include the director of the department of labor and industries or his duly authorized representative, the environmental health specialist from the division of health of the department of social and health services, the supervisor of the grain and chemical division of the department, and the directors, or their appointed representatives, of the departments of ((~~game~~)) wildlife, fisheries, natural resources, and ecology.

Sec. 9. Section 4, chapter 398, Laws of 1985 as amended by section 4, chapter 432, Laws of 1987 and RCW 36.61.040 are each amended to read as follows:

Notice of the public hearing shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed lake management district, the date of the first publication to be at least fifteen days prior to the date fixed for the public hearing by the resolution of intention.

Notice of the public hearing shall also be given to the owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake management district by mailing 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 assessor at the address shown thereon. Notice of the public hearing shall also be mailed to the departments of fisheries, ((~~game~~)) wildlife, and ecology at least fifteen days before the date fixed for the public hearing.

Notices of the public hearing shall: (1) Refer to the resolution of intention; (2) designate the proposed lake management district by number; (3) set forth a proposed plan describing: (a) The nature of the proposed lake improvement or maintenance activities; (b) the amount of special assessments or rates and charges proposed to be raised by the lake management district; (c) if special assessments are proposed to be imposed, whether the special assessments will be imposed annually for the duration of the lake management district, or the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake management bonds being issued, or both; (d) if rates and charges are proposed to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; and (e) the proposed duration of the lake management district; and (4) indicate the date, time, and place of the public hearing designated in the resolution of intention.

In the case of the notice sent to each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost of the lake improvement or maintenance activities to be borne by special assessment, or annual special assessments, or rates and charges on the lot, tract, parcel of land, or other property owned by the owner or reputed owner.

If the county legislative authority has designated a committee of itself or an officer to hear complaints and make recommendations to the full county legislative authority, as provided in RCW 36.61.060, the notice shall also describe this additional step before the full county legislative authority may adopt a resolution creating the lake management district.

Sec. 10. Section 5, chapter 398, Laws of 1985 and RCW 36.61.050 are each amended to read as follows:

The county legislative authority shall hold a public hearing on the proposed lake management district at the date, time, and place designated in the resolution of intention.

At this hearing the county legislative authority shall hear objections from any person affected by the formation of the lake management district. Representatives of the departments of fisheries, ((~~game~~)) wildlife, and ecology shall be afforded opportunities to make presentations on and comment on the proposal. Members of the public shall be afforded an opportunity to comment on the proposal. The county legislative authority must consider

recommendations provided to it by the departments of fisheries, ((~~game~~)) wildlife, and ecology. The public hearing may be extended to other times and dates declared at the public hearing. The county legislative authority may make such changes in the boundaries of the lake management district or such modification in plans for the proposed lake improvement or maintenance activities as it deems necessary. The county legislative authority may not change boundaries of the lake management district to include property that was not included previously without first passing an amended resolution of intention and giving new notice to the owners or reputed owners of property newly included in the proposed lake management district in the manner and form and within the time provided for the original notice. The county legislative authority shall not alter the plans for the proposed lake improvement or maintenance activities to result in an increase in the amount of money proposed to be raised, and shall not increase the amount of money proposed to be raised, without first passing an amended resolution of intention and giving new notice to property owners in the manner and form and within the time provided for the original notice.

Sec. 11. Section 3, chapter 479, Laws of 1987 and RCW 38.52.420 are each amended to read as follows:

(1) The department of community development, in consultation with appropriate federal agencies, the departments of natural resources, ((~~game~~)) wildlife, fisheries, and ecology, representatives of local government, and any other person the director may deem appropriate, shall develop a model contingency plan, consistent with other plans required for hazardous materials by federal and state law, to serve as a draft plan for local governments which may be incorporated into the state and local emergency management plans.

(2) The model contingency plan shall:

(a) Include specific recommendations for pollution control facilities which are deemed to be most appropriate for the control, collection, storage, treatment, disposal, and recycling of oil and other spilled material and furthering the prevention and mitigation of such pollution;

(b) Include recommendations for the training of local personnel consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(c) Suggest cooperative training exercises between the public and private sector consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(d) Identify federal and state laws requiring contingency or management plans applicable or related to prevention of pollution, emergency response capabilities, and hazardous waste management, together with a list of funding sources that local governments may use in development of their specific plans;

(e) Promote formal agreements between the department of community development and local entities for effective spill response; and

(f) Develop policies and procedures for the augmentation of emergency services and agency spill response personnel through the use of volunteers: PROVIDED, That no contingency plan may require the use of volunteers by a responding responsible party without that party's consent.

Sec. 12. Section 2, chapter 98, Laws of 1982 as amended by section 1, chapter 218, Laws of 1987 and RCW 39.04.150 are each amended to read as follows:

(1) As used in this section, "agency" means the department of general administration, the department of fisheries, the department of ((~~game~~)) wildlife, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than fifty thousand dollars are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen by random number generated by computer from the contractors on the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency is unable to solicit quotations from five qualified contractors on the small works roster for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations randomly from contractors on the small works roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster: PROVIDED, That whenever possible, the agency shall invite at least one proposal from a minority contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this section.

Sec. 13. Section 2, chapter 34, Laws of 1984 as last amended by section 14, chapter 504, Laws of 1987 and RCW 42.17.2401 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of financial management, the director of personnel, the director of community development, the director of the state system of community colleges, the director of the department of information services, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the board of prison terms and paroles, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Each member of the state board for community college education, information services board, forest practices board, forest practices appeals board, gambling commission, ((~~game~~)) wildlife commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, personnel appeals board, board of prison terms and paroles, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees,

Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, state housing finance commission, and the utilities and transportation commission.

Sec. 14. Section 43.19.450, chapter 8, Laws of 1965 as last amended by section 3, chapter 98, Laws of 1982 and RCW 43.19.450 are each amended to read as follows:

The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fisheries, department of ((~~game~~)) wildlife, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable.

Sec. 15. Section 17, chapter 62, Laws of 1970 ex. sess. as last amended by section 50, chapter 466, Laws of 1985 and RCW 43.21A.170 are each amended to read as follows:

There is hereby created an ecological commission. The commission shall consist of seven members to be appointed by the governor from the electors of the state who shall have a general knowledge of and interest in environmental matters. No persons shall be eligible for appointment who hold any other state, county or municipal elective or appointive office.

(a) One public member shall be a representative of organized labor.

(b) One public member shall be a representative of the business community.

(c) One public member shall be a representative of the agricultural community.

(d) Four persons representing the public at large.

The members of the initial commission shall be appointed within thirty days after July 1, 1970. Of the members of the initial commission, two shall be appointed for terms ending June 30, 1974, two shall be appointed for terms ending on June 30, 1973, two shall be appointed for terms ending on June 30, 1972, and one shall be appointed for a term ending June 30, 1971. Thereafter, each member of the commission shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the same manner as the original appointments. Each member of the commission shall continue in office until his successor is appointed. No member shall be appointed for more than two consecutive terms. The chairman of the commission shall be appointed from the members by the governor.

The governor may remove any commission member for cause giving him a copy of the charges against him, and an opportunity of being publicly heard in person, or by counsel in his own defense. There shall be no right of review in any court whatsoever. The director or administrator, or a designated representative, of each of the following state agencies:

(1) The department of agriculture;

(2) The department of trade and economic development;

(3) The department of fisheries;

(4) The department of ((~~game~~)) wildlife;

(5) The department of social and health services;

(6) The department of natural resources; and

(7) The state parks and recreation commission shall be given notice of and may attend all meetings of the commission and shall be given full opportunity to examine and be heard on all proposed orders, regulations or recommendations.

Sec. 16. Section 8, chapter 209, Laws of 1975 1st ex. sess. as last amended by section 1101, chapter 330, Laws of 1987 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~~)) wildlife, 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 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 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, 1991.

Sec. 17. Section 3, chapter 306, Laws of 1977 ex sess. and RCW 43-.51.943 are each amended to read as follows:

The state department of natural resources and the state parks and recreation commission have joined together in excellent cooperation in the conducting of this study along with the citizen advisory subcommittee and

have joined together in cooperation with the state department of ((~~game~~)) wildlife to accomplish other projects of multidisciplinary concern, and because it may be in the best interests of the state to continue such cooperation, the state parks and recreation commission, the department of natural resources, and the department of ((~~game~~)) wildlife are hereby directed to consider both short and long term objectives, the expertise of each agency's staff, and alternatives such as reasonably may be expected to safeguard the conservation area's values as described in RCW 43.51.940 giving due regard to efficiency and economy of management: PROVIDED, That the interests conveyed to or by the state agencies identified in this section shall be managed by the department of natural resources until such time as the state parks and recreation commission or other public agency is managing public recreation areas and facilities located in such close proximity to the conservation area described in RCW 43.51.942 so as to make combined management of those areas and facilities and transfer of management of the conservation area more efficient and economical than continued management by the department of natural resources. At that time the department of natural resources is directed to negotiate with the appropriate public agency for the transfer of those management responsibilities for the interests obtained within the conservation area under ((~~this 1977 amendatory act~~)) RCW 43.51.940 through 43.51.945: PROVIDED FURTHER, That the state agencies identified in this section may, by mutual agreement, undertake management of portions of the conservation area as they may from time to time determine in accordance with those rules and regulations established for natural area preserves under chapter 79.70 RCW, for natural and conservation areas under present WAC 352-16-020(3) and (6), and under chapter 77.12 RCW.

Sec. 18. Section 43.52.350, chapter 8, Laws of 1965 as amended by section 5, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.350 are each amended to read as follows:

An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of ((~~game~~)) wildlife and the director of fisheries may jointly find necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of ((~~game~~)) wildlife and the department of fisheries to provide for the construction and/or operation of such fishways, facilities and hatcheries.

Sec. 19. Section 1, chapter 463, Laws of 1985 and RCW 43.81.010 are each amended to read as follows:

The legislature recognizes that significant benefits accrue to the state and that certain types of state operations are more efficient when personnel

services are available on an extended basis. Such operations include certain types of facilities managed by agencies such as the departments of natural resources, corrections, fisheries, ((~~game~~)) wildlife, social and health services, transportation, and veterans affairs, and the parks and recreation commission.

The means of assuring that such personnel are available on an extended basis is through the establishment of on-site state-owned or leased living facilities. The legislature also recognizes the restrictions and hardship placed upon those personnel who are required to reside in such state-owned or leased living facilities in order to provide extended personnel services.

The legislature further recognizes that there are instances where it is to the benefit of the state to have state-owned or leased living facilities occupied even though such occupancy is not required by the agency as a condition of employment.

Sec. 20. Section 43.82.010, chapter 8, Laws of 1965 as last amended by section 1, chapter 41, Laws of 1982 and RCW 43.82.010 are each amended to read as follows:

(1) The director of the department of general administration, on behalf of the agency involved, shall purchase, lease, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section.

(3) The director is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(4) If the director determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsections (1) or (3) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his office and the state agency

benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(5) In order to obtain maximum utilization of space, the director shall make space utilization studies, and shall establish standards for use of space by state agencies.

(6) The director may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his management.

(7) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director or the director's designee, and recorded with the county auditor of the county in which the property is located.

(8) The director may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(9) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fisheries, the department of ((~~game~~)) wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

Sec. 21. Section 84, chapter 287, Laws of 1984 as amended by section 1, chapter 77, Laws of 1985 and RCW 43.99.110 are each amended to read as follows:

There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, the director of ((~~game~~)) wildlife, the director of fisheries, or their designees, and, by appointment of the governor with the advice and consent of the senate, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term; provided the first such members shall be appointed for terms as follows: One member for one year, two members for two years, and two members for three years. The governor shall appoint one of the members from the public

at large to serve as chairman of the committee for the duration of the member's term. Members employed by the state shall serve without additional pay and participation in the work of the committee shall be deemed performance of their employment. Members from the public at large shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the committee in accordance with RCW 43.03-.050 and 43.03.060.

Sec. 22. Section 2, chapter 4, Laws of 1985 ex. sess. as amended by section 1, chapter 103, Laws of 1986 and RCW 43.99G.020 are each amended to read as follows:

Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:

(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of general administration, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of general administration, subject to legislative appropriation.

(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the

purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(3) General obligation bonds of the state of Washington in the sum of thirty-eight 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~~)) wildlife, and the department of natural resources to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the outdoor recreation account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the interagency committee for outdoor recreation, subject to legislative appropriation.

(5) 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 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 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.

Sec. 23. Section 1, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.020 are each amended to read as follows:

The Washington conservation corps is hereby created, to be implemented by the following state departments: The employment security department, the department of ecology, the department of ((~~game~~)) wildlife, the department of natural resources, the department of fisheries, the department of agriculture, and the state parks and recreation commission.

Sec. 24. Section 12, chapter 40, Laws of 1983 1st ex. sess. and RCW 43.220.120 are each amended to read as follows:

(1) There is established a conservation corps within the department of ((~~game~~)) wildlife.

(2) Specific work project areas of the game conservation corps may include the following:

(a) Habitat development;

(b) Land clearing;

(c) Construction projects;

(d) Noxious weed control;

(e) Brush cutting;

(f) Reader board construction;

(g) Painting;

(h) Cleaning and repair of rearing ponds;

(i) Fishtrap construction;

(j) Brush clearance;

(k) Spawning channel restoration;

(l) Log removal;

(m) Nest box maintenance and cleaning;

(n) Fence building;

(o) Winter game feeding and herding; and

(p) Such other projects as the director of ((~~game~~)) wildlife may determine. If appropriate facilities are available, the director of ((~~game~~)) wildlife may authorize carrying out projects which involve overnight stays.

Sec. 25. Section 22, chapter 47, Laws of 1971 ex. sess. as last amended by section 8, chapter 206, Laws of 1986 and RCW 46.09.170 are each amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected 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) Forty percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for planning, 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~~)) wildlife solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) 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-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 to be administered by the committee for 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 an agency may not, except as provided in RCW 46.09.110, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

Sec. 26. Section 1201, chapter 330, Laws of 1987 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~~)) wildlife, 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 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 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.

Sec. 27. Section 11, chapter 200, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 24, Laws of 1983 1st ex. sess. and RCW 46-.16.605 are each amended to read as follows:

All revenue derived from the fees provided for in RCW 46.16.585 shall be forwarded to the state treasurer and be deposited to the credit of the

state ((~~game~~)) wildlife fund to be used for the preservation, protection, perpetuation, and enhancement of nongame species of wildlife including but not limited to song birds, raptors, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates.

Administrative costs incurred by the department of licensing as a direct result of RCW 46.16.560 through 46.16.605 and 77.12.170 shall be appropriated by the legislature from the state ((~~game~~)) wildlife fund from those funds deposited therein resulting from the sale of personalized license plates. If the actual costs incurred by the department of licensing are less than that which has been appropriated by the legislature the remainder shall revert to the state ((~~game~~)) wildlife fund.

Sec. 28. Section 2, chapter 101, Laws of 1975-'76 2nd ex. sess. as amended by section 119, chapter 266, Laws of 1986 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~~)) wildlife, the department of natural resources, the department of fisheries, the department of labor and industries, and the department of community development, through the director of fire protection.

Sec. 29. Section 2, chapter 286, Laws of 1985 and RCW 72.63.020 are each amended to read as follows:

The departments of corrections, fisheries, and ((~~game~~)) wildlife shall establish at or near appropriate state institutions, as defined in RCW 72-.65.010, prison work programs that use prisoners to undertake state food fish, shellfish, and game fish rearing projects and state game bird and game animal improvement, restoration, and protection projects and that meet the requirements of RCW 72.09.100.

The department of corrections shall seek to identify a group of prisoners at each appropriate state institution, as defined by RCW 72.65.010, that are interested in participating in prison work programs established by this chapter.

If the department of corrections is unable to identify a group of prisoners to participate in work programs authorized by this chapter, it may

enter into an agreement with the departments of fisheries or ((~~game~~)) wildlife for the purpose of designing projects for any institution. Costs under this section shall be borne by the department of corrections.

The departments of corrections, fisheries, and ((~~game~~)) wildlife shall use prisoners, where appropriate, to perform work in state projects that may include the following types:

(1) Food fish, shellfish, and game fish rearing projects, including but not limited to egg planting, egg boxes, juvenile planting, pen rearing, pond rearing, raceway rearing, and egg taking;

(2) Game bird and game animal projects, including but not limited to habitat improvement and restoration, replanting and transplanting, nest box installation, pen rearing, game protection, and supplemental feeding: PROVIDED, That no project shall be established at the department of ((~~game's~~)) wildlife's south Tacoma game farm;

(3) Manufacturing of equipment for use in fish and game volunteer cooperative projects permitted by the department of fisheries or the department of ((~~game~~)) wildlife, or for use in prison work programs with fish and game; and

(4) Maintenance, repair, restoration, and redevelopment of facilities operated by the departments of ((~~game~~)) wildlife and fisheries.

Sec. 30. Section 3, chapter 286, Laws of 1985 and RCW 72.63.030 are each amended to read as follows:

(1) The departments of fisheries and ((~~game~~)) wildlife, as appropriate, shall provide professional assistance from biologists, fish culturists, pathologists, engineers, habitat managers, and other departmental staff to assist the development and productivity of prison work programs under RCW 72.63-.020, upon agreement with the department of corrections.

(2) The departments of fisheries and ((~~game~~)) wildlife shall identify and describe potential and pilot projects that are compatible with the goals of the various departments involved and that are particularly suitable for prison work programs.

(3) The departments of fisheries or ((~~game~~)) wildlife, or both, as appropriate, may make available surplus hatchery rearing space, net pens, egg boxes, portable rearing containers, incubators, and any other departmental facilities or property that are available for loan to the department of corrections to carry out prison work programs under RCW 72.63.020.

(4) The departments of fisheries or ((~~game~~)) wildlife, or both, as appropriate, shall provide live fish eggs, bird eggs, juvenile fish, game animals, or other appropriate seed stock, juveniles, or brood stock of acceptable disease history and genetic composition for the prison work projects at no cost to the department of corrections, to the extent that such resources are available. Fish food, bird food, or animal food may be provided by the departments of fisheries and ((~~game~~)) wildlife to the extent that funding is available.

(5) The department of natural resources shall assist in the implementation of the program where project sites are located on public beaches or state owned aquatic lands.

Sec. 31. Section 75.08.020, chapter 12, Laws of 1955 as last amended by section 71, chapter 505, Laws of 1987 and RCW 75.08.020 are each amended to read as follows:

(1) The director shall investigate the habits, supply, and economic use of food fish and shellfish in state and offshore waters.

(2) The director shall make an annual report to the governor on the operation of the department and the statistics of the fishing industry.

(3) Subject to RCW 40.07.040, the director shall provide a comprehensive biennial report of all departmental operations to the chairs of the committees on natural resources and ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, to reflect the previous fiscal period. The format of the report shall be similar to reports issued by the department from 1964–1970 and the report shall include, but not be limited to, descriptions of all department activities including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, and outlines of ongoing litigation, recent court decisions and orders on major issues with the potential for state liability. The report shall describe the status of the resource and its recreational, commercial, and tribal utilization. The report shall be given to the house and senate committees on ways and means and the house and senate committees on natural resources and shall be made available to the public.

~~(((4) The director, in cooperation with the director of game and the dean of the college of fisheries at the University of Washington, shall develop proposals to reinstate the natural salmon and steelhead trout fish runs in the Tilton and upper Cowlitz rivers. The proposals shall include specific recommendations for legislation and estimates of the costs of replenishing the fish runs by 1991, but shall not include alternatives to replenishing the fish runs. Proposals under this subsection shall be submitted by the director and the director of game to the legislature no later than January 1986.)~~)

Sec. 32. Section 75.20.050, chapter 12, Laws of 1955 as last amended by section 7, chapter 173, Laws of 1986 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~~)) wildlife notice of each application for a permit to divert or store water. The director of fisheries and director of ((~~game~~)) wildlife 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~~)) wildlife, 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.

Sec. 33. Section 75.20.100, chapter 12, Laws of 1955 as last amended by section 1, chapter 173, Laws of 1986 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 of the salt or fresh waters of the state, 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 of fisheries or the department of ((~~game~~)) wildlife 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~~)) wildlife 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 department of fisheries or the department of ((~~game~~)) wildlife 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 approval within two years of the date of issuance. If either the department of fisheries or the department of ((~~game~~)) wildlife 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 department of fisheries or the department of ((~~game~~)) wildlife 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 RCW 75.20.103, "bed" shall mean 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 of fisheries and the department of ((~~game~~)) wildlife shall mutually agree on whether the department of fisheries or the department of ((~~game~~)) wildlife 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~~)) wildlife 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~~)) wildlife, 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. 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 RCW 75.20.103.

Sec. 34. Section 2, chapter 173, Laws of 1986 and RCW 75.20.103 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 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~~)) wildlife 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~~)) wildlife 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~~)) wildlife 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~~)) wildlife 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~~)) wildlife 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~~)) wildlife 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~~)) wildlife shall mutually agree on whether the department of fisheries or the department of ((~~game~~)) wildlife 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~~)) wildlife 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~~)) wildlife, 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. 35. Section 6, chapter 173, Laws of 1986 and RCW 75.20.106 are each amended to read as follows:

The department of fisheries and the department of ((~~game~~)) wildlife may each levy civil penalties of up to one hundred dollars per day for violation of any provisions of RCW 75.20.100 or 75.20.103. 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~~)) wildlife 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. 36. Section 1, chapter 4, Laws of 1961 as last amended by section 5, chapter 307, Laws of 1985 and RCW 75.20.110 are each amended to read as follows:

(1) Except for the north fork of the Lewis river and the White Salmon river, all streams and rivers tributary to the Columbia river downstream from McNary dam are established as an anadromous fish sanctuary. This sanctuary is created to preserve and develop the food fish and game fish resources in these streams and rivers and to protect them against undue industrial encroachment.

(2) Within the sanctuary area:

(a) It is unlawful to construct a dam greater than twenty-five feet high within the migration range of anadromous fish as jointly determined by the director of fisheries and the director of ((~~game~~)) wildlife.

(b) Except by concurrent order of the director of fisheries and director of ((~~game~~)) wildlife, it is unlawful to divert water from rivers and streams in quantities that will reduce the respective stream flow below the annual average low flow, based upon data published in United States geological survey reports.

(3) The director of fisheries and the director of ((~~game~~)) wildlife may acquire and abate a dam or other obstruction, or acquire any water right vested on a sanctuary stream or river, which is in conflict with the provisions of subsection (2) of this section.

(4) Subsection (2)(a) of this section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers.

Sec. 37. Section 4, chapter 173, Laws of 1986 and RCW 75.20.130 are each amended to read as follows:

(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~~)) wildlife under the authority granted in RCW 75.20.103 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 RCW 75.20.103 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.

Sec. 38. Section 8, chapter 7, Laws of 1982 as last amended by section 6, chapter 307, Laws of 1985 and RCW 75.20.300 are each amended to read as follows:

(1) The legislature intends to expedite flood-control, acquisition of sites for sediment retention, and dredging operations in those rivers affected by the May 1980 eruption of Mt. St. Helens, while continuing to protect the fish resources of these rivers.

(2) The director of fisheries and director of ((~~game~~)) wildlife shall process hydraulic project applications submitted under RCW 75.20.100 within fifteen working days of receipt of the application. This requirement is only applicable to flood control and dredging projects located in the Cowlitz river from mile 22 to the confluence with the Columbia, and in the Toutle river from the mouth to the North Fork Toutle sediment dam site at North Fork mile 12, and volcano-affected areas of the Columbia river.

(3) For the purposes of this section, the emergency provisions of RCW 75.20.100 may be initiated by the county legislative authority if the project is necessary to protect human life or property from flood hazards, including:

(a) Flood fight measures necessary to provide protection during a flood event; or

(b) Measures necessary to reduce or eliminate a potential flood threat when other alternative measures are not available or cannot be completed prior to the expected flood threat season; or

(c) Measures which must be initiated and completed within an immediate period of time and for which processing of the request through normal methods would cause a delay to the project and such delay would significantly increase the potential for damages from a flood event.

(4) This section does not apply to the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers.

(5) This section expires on June 30, 1990.

Sec. 39. Section 101, chapter 506, Laws of 1987 and RCW 75.20.310 are each amended to read as follows:

The legislature recognizes the need to mitigate the effects of sedimentary build-up and resultant damage to fish population in the Toutle river resulting from the Mt. St. Helens eruption. The state has entered into a contractual agreement with the United States army corps of engineers designed to minimize fish habitat disruption created by the sediment retention structure on the Toutle river, under which the corps has agreed to construct a fish collection facility at the sediment retention structure site conditional upon the state assuming the maintenance and operation costs of the facility. The department of ((~~game~~)) wildlife and the department of fisheries shall cooperatively operate and maintain a fish collection facility on the Toutle river. Each agency shall share in the cost of operating and maintaining the facility.

Sec. 40. Section 2, chapter 327, Laws of 1977 ex. sess. as last amended by section 8, chapter 458, Laws of 1985 and RCW 75.48.120 are each amended to read as follows:

(1) The department shall not acquire, construct, or substantially improve a salmon enhancement facility unless the requirements of this section are met.

(a) The productivity of a salmon propagation facility is very dependent on water quantity and quality. Due to the limited number of water sources which meet the critical needs of a facility, it is imperative that these sources are acquired. Therefore, site acquisitions and preliminary design shall be considered by the department as generally having priority over project development.

(b) Prior to expending moneys for the construction and development of a particular salmon propagation facility, except for site acquisition and preliminary design, the department shall, with the advice of the advisory council created in subsection (2) of this section, give consideration to the following factors with respect to that facility:

(i) The department's management authority over propagated salmon;

(ii) The level of expected Canadian interception on the propagated salmon and whether this would be acceptable;

(iii) Whether an acceptable agreement has been reached on the status of treaty Indian salmon harvest;

(iv) Whether there can be a maximum harvest of propagated salmon with a tolerable impact on other salmonid stocks, both natural and artificial, and on their environment. The department shall consult on this matter with the department of ((~~game~~)) wildlife; and

(v) Compatibility with regional policy statements and the salmon enhancement plan under chapter 75.50 RCW.

(2) To aid and advise the department in the performance of its functions with regard to the salmon enhancement program, a salmon advisory council is created. The advisory council consists of six members appointed by the governor; four legislative ex officio nonvoting members, one appointed by each caucus in both the state senate and the house of representatives; and the director or his or her specifically appointed designee, who shall be the nonvoting chairman. Of the members appointed by the governor, two shall represent non–Indian commercial fishermen, two shall represent sports fishermen, and two shall represent treaty Indian fishermen. Of the treaty Indian fishermen, one shall be selected from a list provided by the Washington state tribal coordinating body and one shall be selected from a list provided by the Columbia river tribal coordinating body defined in 16 U.S.C. 3302 (5) and (18).

All members appointed by the governor shall serve terms of two years. Vacancies shall be filled in the same manner as original appointments.

The advisory council shall be convened by the director prior to the decision to expend funds for construction and development of any salmon enhancement project. The council shall advise the director with regard to the considerations listed in subsection (1)(b) of this section and other factors the council deems relevant with respect to the proposed facility. The council shall actively participate in the development of regional policy statements and the salmon enhancement plan.

Members shall receive reimbursement through the department of fisheries for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

The salmon advisory council shall cease to exist on December 31, 1989. This section expires on December 31, 1989.

Sec. 41. Section 1, chapter 72, Laws of 1984 and RCW 72.52.010 [75.52.010] are each amended to read as follows:

The fish and game resources of the state benefit by the contribution of volunteer recreational and commercial fishing organizations, schools, and other volunteer groups in cooperative projects under agreement with the department of fisheries or the department of ((~~game~~)) wildlife. These projects provide educational opportunities, improve the communication between the natural resources agencies and the public, and increase the fish and game resources of the state. In an effort to increase these benefits and realize the full potential of cooperative projects, the department of fisheries and the department of ((~~game~~)) wildlife each shall administer a cooperative fish and wildlife enhancement program and enter agreements with volunteer groups relating to the operation of cooperative projects.

Sec. 42. Section 2, chapter 72, Laws of 1984 and RCW 75.52.020 are each amended to read as follows:

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

(1) "Volunteer group" means any person or group of persons interested in or party to an agreement with the department of fisheries or the department of ((~~game~~)) wildlife relating to a cooperative fish or game project.

(2) "Cooperative project" means a project conducted by a volunteer group that will benefit the fish, shellfish, game bird, nongame wildlife, or game animal resources of the state and for which the benefits of the project, including fish and game reared and released, are available to all citizens of the state. Indian tribes may elect to participate in cooperative fish and wildlife projects with the department.

(3) "Department" means either the department of fisheries or the department of ((~~game~~)) wildlife, whichever is responsible for managing the species of fish or game most affected by the cooperative project.

Sec. 43. Section 8, chapter 457, Laws of 1985 and RCW 75.58.010 are each amended to read as follows:

(1) The director of agriculture and the director of fisheries shall jointly develop((~~, in consultation with the aquaculture advisory council,~~)) a program of disease inspection and control for aquatic farmers as defined in RCW 15.85.020. The program shall be administered by the department of fisheries under rules established under this section. The purpose of the program is to protect the aquaculture industry and wildstock fisheries from a loss of productivity due to aquatic diseases or maladies. As used in this section "diseases" means, in addition to its ordinary meaning, infestations of parasites or pests. The disease program may include, but is not limited to, the following elements:

(a) Disease diagnosis;

(b) Import and transfer requirements;

(c) Provision for certification of stocks;

(d) Classification of diseases by severity;

(e) Provision for treatment of selected high-risk diseases;

(f) Provision for containment and eradication of high-risk diseases;

(g) Provision for destruction of diseased cultured aquatic products;

(h) Provision for quarantine of diseased cultured aquatic products;

(i) Provision for coordination with state and federal agencies;

(j) Provision for development of preventative or control measures;

(k) Provision for cooperative consultation service to aquatic farmers; and

(l) Provision for disease history records.

(2) The director of fisheries shall adopt rules implementing this section. However, such rules shall have the prior approval of the director of agriculture and shall provide therein that the director of agriculture has provided such approval. The director of agriculture or the director's designee shall attend the rule-making hearings conducted under chapter 34.04 RCW and shall assist in conducting those hearings. The authorities granted the department of fisheries by these rules and by RCW 75.08.080(1)(g), 75.24-.080, 75.24.110, 75.28.125, 75.58.020, 75.58.030, and 75.58.040 constitute the only authorities of the department of fisheries to regulate private sector cultured aquatic products and aquatic farmers as defined in RCW 15.85-.020. Except as provided in subsection (3) of this section, no action may be taken against any person to enforce these rules unless the department has first provided the person an opportunity for a hearing. In such a case, if the hearing is requested, no enforcement action may be taken before the conclusion of that hearing.

(3) The rules adopted under this section shall specify the emergency enforcement actions that may be taken by the department of fisheries, and the circumstances under which they may be taken, without first providing the affected party with an opportunity for a hearing. Neither the provisions of this subsection nor the provisions of subsection (2) of this section shall

preclude the department of fisheries from requesting the initiation of criminal proceedings for violations of the disease inspection and control rules.

(4) It is unlawful for any person to violate the rules adopted under subsection (2) or (3) of this section or to violate RCW 75.58.040.

(5) In administering the program established under this section, the department of fisheries shall use the services of a pathologist licensed to practice veterinary medicine.

(6) The director in administering the program shall not place constraints on or take enforcement actions in respect to the aquaculture industry that are more rigorous than those placed on the department of fisheries, the department of ((~~game~~)) wildlife, or other fish-rearing entities.

Sec. 44. Section 10, chapter 457, Laws of 1985 and RCW 75.58.030 are each amended to read as follows:

(1) The director of fisheries shall consult regarding the disease inspection and control program established under RCW 75.58.010 with the department of ((~~game~~)) wildlife, federal agencies, and Indian tribes to assure protection of state, federal, and tribal aquatic resources and to protect private sector cultured aquatic products from disease that could originate from waters or facilities managed by those agencies.

(2) With regard to the program, the director of fisheries may enter into contracts or interagency agreements for diagnostic field services with government agencies and institutions of higher education and private industry.

(3) The director of fisheries shall provide for the creation and distribution of a roster of biologists having a speciality in the diagnosis or treatment of diseases of fish or shellfish. The director shall adopt rules specifying the qualifications which a person must have in order to be placed on the roster.

Sec. 45. Section 11, chapter 457, Laws of 1985 and RCW 75.58.040 are each amended to read as follows:

All aquatic farmers as defined in RCW 15.85.020 shall register with the department of fisheries. The director shall develop and maintain a registration list of all aquaculture farms. Registered aquaculture farms shall provide the department production statistical data. The state veterinarian and the department of ((~~game~~)) wildlife shall be provided with registration and statistical data by the department.

Sec. 46. Section 4, chapter 137, Laws of 1974 ex. sess. as amended by section 8, chapter 95, Laws of 1987 and RCW 76.09.040 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall promulgate forest practices regulations pursuant to chapter 34.04 RCW and in accordance with the procedures enumerated in this section ((~~and RCW 76.09.200~~)) that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards; and

(c) Set forth necessary administrative provisions.

Forest practices regulations pertaining to water quality protection shall be promulgated individually by the board and by the department of ecology after they have reached agreement with respect thereto. All other forest practices regulations shall be promulgated by the board.

Forest practices regulations shall be administered and enforced by the department except as otherwise provided in this chapter. Such regulations shall be promulgated and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices regulations. In addition to any forest practices regulations relating to water quality protection proposed by the board, the department of ecology shall prepare proposed forest practices regulations relating to water quality protection.

Prior to initiating the rule making process, the proposed regulations shall be submitted for review and comments to the department of fisheries, the department of ((~~game~~)) wildlife, and to the counties of the state. After receipt of the proposed forest practices regulations, the departments of fisheries and ((~~game~~)) wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed regulations relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed regulations pursuant to chapter 34.04 RCW. At such hearing(s) any county may propose specific forest practices regulations relating to problems existing within such county. The board and the department of ecology may adopt such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

Sec. 47. Section 5, chapter 137, Laws of 1974 ex. sess. as last amended by section 9, chapter 95, Laws of 1987 and RCW 76.09.050 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource that may be conducted without submitting an application or a notification;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the

manner, content, and form as prescribed by the department, is received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, or being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 75.20.100;

(c) Within "shorelines of the state" as defined in RCW 90.58.030; or

(d) Excluded from Class II by the board;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, (b) on lands being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, and/or (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) No Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended: PROVIDED, That any person commencing a forest practice during 1974 may continue such forest practice until April 1, 1975, if such person has

submitted an application to the department prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) If a notification or application is delivered in person to the department by the operator or his agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) The department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology, ((~~game~~)) wildlife, and fisheries, and to the county in which the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) If the county believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) The department shall not approve portions of applications to which a county objects if:

(a) The department receives written notice from the county of such objections within fourteen business days from the time of transmittal of the application to the county, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960; or

(ii) Being converted to another use.

The department shall either disapprove those portions of such application or appeal the county objections to the appeals board. If the objections related to subparagraphs (b) (i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county objections. Unless the county either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county objections has expired.

(8) In addition to any rights under the above paragraph, the county may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) Appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.220((~~(9)~~)) (8). In such appeals there shall be no presumption of correctness of either the county or the department position.

(10) The department shall, within four business days notify the county of all notifications, approvals, and disapprovals of an application affecting lands within the county, except to the extent the county has waived its right to such notice.

(11) A county may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

Sec. 48. Section 18, chapter 137, Laws of 1974 ex. sess. and RCW 76-.09.180 are each amended to read as follows:

All penalties received or recovered by state agency action for violations as prescribed in RCW 76.09.170 shall be deposited in the state general fund. All such penalties recovered as a result of local government action shall be deposited in the local government general fund. Any funds recovered as reimbursement for damages pursuant to RCW 76.09.080 and 76-.09.090 shall be transferred to that agency with jurisdiction over the public resource damaged, including but not limited to political subdivisions, the

department of ((~~game~~)) wildlife, the department of fisheries, the department of ecology, the department of natural resources, or any other department that may be so designated: PROVIDED, That nothing herein shall be construed to affect the provisions of RCW 90.48.142.

Sec. 49. Section 5, chapter 47, Laws of 1967 ex. sess. as last amended by section 3, chapter 94, Laws of 1979 ex. sess. and RCW 76.48.040 are each amended to read as follows:

Agencies charged with the enforcement of this chapter shall include, but not be limited to, the Washington state patrol, county sheriffs and their deputies, county or municipal police forces, authorized personnel of the United States forest service, and authorized personnel of the departments of natural resources, fisheries, and ((~~game~~)) wildlife. Primary enforcement responsibility lies in the county sheriffs and their deputies.

Sec. 50. Section 17, chapter 78, Laws of 1980 as last amended by section 16, chapter 506, Laws of 1987 and RCW 77.12.055 are each amended to read as follows:

(1) Jurisdiction and authority granted under RCW 77.12.060, 77.12-.070, and 77.12.080 to the director, wildlife agents, and ex officio wildlife agents is limited to the laws and rules adopted pursuant to this title pertaining to wildlife or to the management, operation, maintenance, or use of or conduct on real property used, owned, leased, or controlled by the department and other statutes as prescribed by the legislature. However, when acting within the scope of these duties and when an offense occurs in the presence of the wildlife agent who is not an ex officio wildlife agent, the wildlife agent may enforce all criminal laws of the state. The wildlife agent must have successfully completed the basic law enforcement academy course sponsored by the criminal justice training commission, or a supplemental course in criminal law enforcement as approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.

(2) Wildlife agents are peace officers.

(3) Any liability or claim of liability which arises out of the exercise or alleged exercise of authority by a wildlife agent rests with the department unless the wildlife agent acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department of ((~~game~~)) wildlife and another agency.

(4) Wildlife agents may serve and execute warrants and processes issued by the courts.

Sec. 51. Section 77.16.170, chapter 36, Laws of 1955 as last amended by section 1, chapter 372, Laws of 1987 and RCW 77.16.170 are each amended to read as follows:

It is unlawful to take a wild animal from another person's trap without permission, or to spring, pull up, damage, possess, or destroy the trap; however, it is not unlawful for a property owner, lessee, or tenant to remove a trap placed on the owner's, lessee's, or tenant's property by a trapper.

Trappers shall attach to the chain of their traps or devices a legible metal tag with either the ((~~game~~)) department of wildlife identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.

When an individual presents a trapper identification number to the department of ((~~game~~)) wildlife and requests identification of the trapper, the department of ((~~game~~)) wildlife shall provide the individual with the name and address of the trapper. Prior to disclosure of the trapper's name and address, the department of ((~~game~~)) wildlife shall obtain the name and address of the requesting individual in writing and after disclosing the trapper's name and address to the requesting individual, the requesting individual's name and address shall be disclosed in writing to the trapper whose name and address was disclosed.

Sec. 52. Section 15, chapter 310, Laws of 1981 as last amended by section 90, chapter 506, Laws of 1987 and RCW 77.32.380 are each amended to read as follows:

Persons sixteen years of age or older who use clearly identified department lands and access facilities are required to possess a conservation license or a hunting, fishing, trapping, or free license on their person while using the facilities. The fee for this license is eight dollars annually.

The spouse, all children under eighteen years of age, and guests under eighteen years of age of the holder of a valid conservation license may use department lands and access facilities when accompanied by the license holder.

Youth groups may use department lands and game access facilities without possessing a conservation license when accompanied by a license holder.

The conservation license is nontransferable and must be validated by the signature of the holder. Upon request of a wildlife agent or ex officio wildlife agent a person using clearly identified ((~~game~~)) department of wildlife lands shall exhibit the required license.

Sec. 53. Section 8, chapter 222, Laws of 1984 and RCW 79.66.080 are each amended to read as follows:

Periodically, at intervals to be determined by the board of natural resources, the department of natural resources shall identify trust lands which are expected to convert to commercial, residential, or industrial uses within ten years. The department shall adhere to existing local comprehensive plans, zoning classifications, and duly adopted local policies when making this identification and determining the fair market value of the property.

The department shall hold a public hearing on the proposal in the county where the state land is located. At least fifteen days but not more than thirty days before the hearing, the department shall publish a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the trust land is located. At the same time that the published notice is given, the department shall give written notice of the hearings to the departments of fisheries, ((~~game, parks and recreation~~)) wildlife, and general administration, to the parks and recreation commission, and to the county, city, or town in which the property is situated. The department shall disseminate a news release pertaining to the hearing among printed and electronic media in the area where the trust land is located. The public notice and news release also shall identify trust lands in the area which are expected to convert to commercial, residential, or industrial uses within ten years.

A summary of the testimony presented at the hearings shall be prepared for the board's consideration. The board of natural resources shall designate trust lands which are expected to convert to commercial, residential, or industrial uses as urban land. Descriptions of lands designated by the board shall be made available to the county and city or town in which the land is situated and for public inspection and copying at the department's administrative office in Olympia, Washington and at each area office.

The hearing and notice requirements of this section apply to those trust lands which have been identified by the department prior to July 1, 1984, as being expected to convert to commercial, residential, or industrial uses within the next ten years, and which have not been sold or exchanged prior to July 1, 1984.

Sec. 54. Section 3, chapter 119, Laws of 1972 ex. sess. as amended by section 3, chapter 189, Laws of 1981 and RCW 79.70.030 are each amended to read as follows:

In order to set aside, preserve and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

(1) Establish by rule and regulation the criteria for selection, acquisition, management, protection and use of such natural areas;

(2) Cooperate or contract with any federal, state, or local governmental agency, private organizations or individuals in carrying out the purpose of this chapter;

(3) Consistent with the plan, acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area;

(4) Acquire by gift, devise, grant or donation any personal property to be used in the acquisition and/or management of natural areas;

(5) Inventory existing public, state and private lands in cooperation with the council to assess possible natural areas to be preserved within the state;

(6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department of natural resources shall cooperate with the department of ((~~game~~)) wildlife in the selection and nomination of areas from the data bank that relate to critical wildlife habitats. Information from the data bank shall be made available to public and private agencies and individuals for environmental assessment and proprietary land management purposes. Usage of the classification, inventory or data bank of natural heritage resources for any purpose inconsistent with the natural heritage program is not authorized;

(7) Prepare a natural heritage plan which shall govern the natural heritage program in the conduct of activities to create and manage a system of natural areas which may include areas designated under the research natural area program on federal lands in the state;

(a) The plan shall list the natural heritage resources to be considered for registration and shall provide criteria for the selection and approval of natural areas under this chapter;

(b) The department shall provide opportunities for input, comment, and review to the public, other public agencies, and private groups with special interests in natural heritage resources during preparation of the plan;

(c) Upon approval by the council and adoption by the department, the plan shall be updated and submitted biennially to the appropriate committees of the legislature for their information and review. The plan shall take effect ninety days after the adjournment of the legislative session in which it is submitted unless the reviewing committees suggest changes or reject the plan; and

(8) Maintain a state register of natural areas containing significant natural heritage resources to be called the Washington register of natural area preserves. Selection of natural areas for registration shall be in accordance with criteria listed in the natural heritage plan and accomplished through voluntary agreement between the owner of the natural area and the department. No privately owned lands may be proposed to the council for registration without prior notice to the owner or registered without voluntary consent of the owner. No state or local governmental agency may require such consent as a condition of any permit or approval of or settlement of any civil or criminal proceeding or to penalize any landowner in any way for failure to give, or for withdrawal of, such consent.

(a) The department shall adopt rules and regulations as authorized by RCW 43.30.310 and 79.70.030(1) and chapter 34.04 RCW relating to voluntary natural area registration.

(b) After approval by the council, the department may place sites onto the register or remove sites from the register.

(c) The responsibility for management of registered natural area preserves shall be with the preserve owner. A voluntary management agreement may be developed between the department and the owners of the sites on the register.

(d) Any public agency may register lands under provisions of this chapter.

Sec. 55. Section 4, chapter 189, Laws of 1981 and RCW 79.70.070 are each amended to read as follows:

(1) The natural heritage advisory council is hereby established. The council shall consist of fifteen members, nine of whom shall be chosen as follows and who shall elect from the council's membership a chairperson:

(a) Five individuals, appointed by the commissioner, who shall be recognized experts in the ecology of natural areas and represent the public, academic, and private sectors. Desirable fields of expertise are biological and geological sciences; and

(b) Four individuals, appointed by the commissioner, who shall be selected from the various regions of the state. At least one member shall be or represent a private forest landowner and at least one member shall be or represent a private agricultural landowner.

(2) Members appointed under subsection (1) of this section shall serve for terms of four years.

(3) In addition to the members appointed by the commissioner, the director of the department of ((~~game~~)) wildlife, the director of the department of ecology, the director of the department of fisheries, the supervisor of the department of natural resources, the director of the state parks and recreation commission, and the administrator of the interagency committee for outdoor recreation, or an authorized representative of each agency officer, shall serve as ex officio, nonvoting members of the council.

(4) Any vacancy on the council shall be filled by appointment for the unexpired term by the commissioner.

(5) In order to provide for staggered terms, of the initial members of the council:

(a) Three shall serve for a term of two years;

(b) Three shall serve for a term of three years; and

(c) Three shall serve for a term of four years.

(6) Members of the natural preserves advisory committee serving on July 26, 1981, shall serve as members of the council until the commissioner appoints a successor to each. The successor appointment shall be specifically designated to replace a member of the natural preserves advisory committee

until all members of that committee have been replaced. A member of the natural preserves advisory committee is eligible for appointment to the council if otherwise qualified.

(7) Members of the council shall serve without compensation. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

Sec. 56. Section 5, chapter 189, Laws of 1981 and RCW 79.70.080 are each amended to read as follows:

(1) The council shall:

(a) Meet at least annually and more frequently at the request of the chairperson;

(b) Recommend policy for the natural heritage program through the review and approval of the natural heritage plan;

(c) Advise the department, the department of ((~~game~~)) wildlife, the state parks and recreation commission, the department of fisheries, and other state agencies managing state-owned land or natural resources regarding areas under their respective jurisdictions which are appropriate for natural area registration or dedication;

(d) Advise the department of rules and regulations that the council considers necessary in carrying out this chapter; and

(e) Review and approve area nominations by the department or other agencies for registration and review and comment on legal documents for the voluntary dedication of such areas.

(2) From time to time, the council shall identify areas from the natural heritage data bank which qualify for registration. Priority shall be based on the natural heritage plan and shall generally be given to those resources which are rarest, most threatened, or under-represented in the heritage conservation system on a state-wide basis. After qualifying areas have been identified, the department shall advise the owners of such areas of the opportunities for acquisition or voluntary registration or dedication.

Sec. 57. Section 2, chapter 161, Laws of 1977 ex. sess. as last amended by section 1, chapter 57, Laws of 1987 and RCW 79.72.020 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the state parks and recreation commission.

(2) "Committee of participating agencies" or "committee" means a committee composed of the executive head, or the executive's designee, of each of the state departments of ecology, fisheries, ((~~game~~)) wildlife, natural resources, and transportation, the state parks and recreation commission, the interagency committee for outdoor recreation, the Washington state association of counties, and the association of Washington cities. In addition, the governor shall appoint two public members of the committee. Public members of the committee shall be compensated in accordance with RCW

43.03.220 and shall receive reimbursement for their travel expenses as provided in RCW 43.03.050 and RCW 43.03.060.

When a specific river or river segment of the state's scenic river system is being considered by the committee, a representative of each participating local government associated with that river or river segment shall serve as a member of the committee.

(3) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(4) "River" means a flowing body of water or a section, segment, or portion thereof.

(5) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(6) "Scenic easement" means the negotiated right to control the use of land, including the air space above the land, for the purpose of protecting the scenic view throughout the visual corridor.

(7) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater run-off peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(8) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless the rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(9) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. The visual corridor shall not exceed the river area.

Sec. 58. Section 7, chapter 161, Laws of 1977 ex. sess. and RCW 79-.72.070 are each amended to read as follows:

Nothing contained in this chapter shall affect the authority of the department of fisheries and the department of ((~~game~~)) wildlife to construct facilities or make improvements to facilitate the passage or propagation of fish nor shall anything in this chapter be construed to interfere with the powers, duties, and authority of the department of fisheries or the department of ((~~game~~)) wildlife to regulate, manage, conserve, and provide for the harvest of fish or wildlife within any area designated as being in the state's scenic river system: PROVIDED, That no hunting shall be permitted in any state park.

Sec. 59. Section 10, chapter 161, Laws of 1977 ex. sess. and RCW 79-.72.100 are each amended to read as follows:

No funds shall be expended from the ((game)) wildlife fund to carry out the provisions of this chapter.

Sec. 60. Section 51, chapter 266, Laws of 1986 and RCW 80.50.030 are each 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)) wildlife;

(d) ((Department of)) Parks and recreation commission;

(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 agriculture;

(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.

Sec. 61. Section 7, chapter 98, Laws of 1980 as amended by section 7, chapter 284, Laws of 1983 and RCW 82.27.070 are each amended to read as follows:

All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund except for the excise tax on anadromous game fish, which shall be deposited in the ((~~game~~)) wildlife fund.

Sec. 62. Section 3, chapter 393, Laws of 1985 and RCW 84.34.055 are each amended to read as follows:

(1) The county legislative authority may direct the county planning commission to set open space priorities and adopt, after a public hearing, an open space plan and public benefit rating system for the county. The plan shall consist of criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. The assessed valuation schedule shall be developed by the county assessor and shall be a percentage of market value based upon the public benefit rating system. The open space plan, the public benefit rating system, and the assessed valuations schedule shall not be effective until approved by the county legislative authority after at least one public hearing: PROVIDED, That any county which has complied with the procedural requisites of this act, prior to July 28, 1985, need not repeat those procedures in order to adopt an open space plan pursuant to this act.

(2) In adopting an open space plan, recognized sources shall be used unless the county does its own survey of important open space priorities or features, or both. Recognized sources include but are not limited to the natural heritage data base; the state office of historic preservation; the interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features; state, national, county, or city registers of historic places; the shoreline master program; or studies by the parks and recreation commission and by the departments of fisheries, ((~~game~~)) wildlife, and natural resources. Features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final approval as open space.

(3) When the county open space plan is adopted, owners of open space lands then classified under this chapter shall be notified in the same manner as is provided in RCW 84.40.045 of their new assessed value. These lands may be removed from classification, upon request of owner, without penalty within thirty days of notification of value.

(4) The open space plan and public benefit rating system under this section may be adopted for taxes payable in 1986 and thereafter.

Sec. 63. Section 6, chapter 240, Laws of 1951 as last amended by section 2, chapter 46, Laws of 1986 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~~)) wildlife, 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. 64. Section 7, chapter 240, Laws of 1951 as last amended by section 3, chapter 46, Laws of 1986 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~~)) wildlife.

No participation 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.

(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~~)) wildlife.

Sec. 65. Section 30, chapter 117, Laws of 1917 as last amended by section 66, chapter 109, Laws of 1987 and RCW 90.03.280 are each amended to read as follows:

Upon receipt of a proper application, the department shall instruct the applicant to publish notice thereof in a form and within a time prescribed by him in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use is to be made, and in such other newspapers as he may direct, once a week for two consecutive weeks. Upon receipt by the department of an application it shall send notice thereof containing pertinent information to the director of fisheries and the director of ((~~game~~)) wildlife.

Sec. 66. Section 31, chapter 117, Laws of 1917 as last amended by section 86, chapter 109, Laws of 1987 and RCW 90.03.290 are each amended to read as follows:

When an application complying with the provisions of this chapter and with the rules and regulations of the department has been filed, the same shall be placed on record with the department, and it shall be its duty to

investigate the application, and determine what water, if any, is available for appropriation, and find and determine to what beneficial use or uses it can be applied. If it is proposed to appropriate water for irrigation purposes, the department shall investigate, determine and find what lands are capable of irrigation by means of water found available for appropriation. If it is proposed to appropriate water for the purpose of power development, the department shall investigate, determine and find whether the proposed development is likely to prove detrimental to the public interest, having in mind the highest feasible use of the waters belonging to the public. If the application does not contain, and the applicant does not promptly furnish sufficient information on which to base such findings, the department may issue a preliminary permit, for a period of not to exceed three years, requiring the applicant to make such surveys, investigations, studies, and progress reports, as in the opinion of the department may be necessary. If the applicant fails to comply with the conditions of the preliminary permit, it and the application or applications on which it is based shall be automatically canceled and the applicant so notified. If the holder of a preliminary permit shall, before its expiration, file with the department a verified report of expenditures made and work done under the preliminary permit, which, in the opinion of the department, establishes the good faith, intent and ability of the applicant to carry on the proposed development, the preliminary permit may, with the approval of the governor, be extended, but not to exceed a maximum period of five years from the date of the issuance of the preliminary permit. The department shall make and file as part of the record in the matter, written findings of fact concerning all things investigated, and if it shall find that there is water available for appropriation for a beneficial use, and the appropriation thereof as proposed in the application will not impair existing rights or be detrimental to the public welfare, it shall issue a permit stating the amount of water to which the applicant shall be entitled and the beneficial use or uses to which it may be applied: PROVIDED, That where the water applied for is to be used for irrigation purposes, it shall become appurtenant only to such land as may be reclaimed thereby to the full extent of the soil for agricultural purposes. But where there is no unappropriated water in the proposed source of supply, or where the proposed use conflicts with existing rights, or threatens to prove detrimental to the public interest, having due regard to the highest feasible development of the use of the waters belonging to the public, it shall be duty of the department to reject such application and to refuse to issue the permit asked for. If the permit is refused because of conflict with existing rights and such applicant shall acquire same by purchase or condemnation under RCW 90.03.040, the department may thereupon grant such permit. Any application may be approved for a less amount of water than that applied for, if there exists substantial reason therefor, and in any event shall not be approved for more water than can be applied to beneficial use for the

purposes named in the application. In determining whether or not a permit shall issue upon any application, it shall be the duty of the department to investigate all facts relevant and material to the application. After the department approves said application in whole or in part and before any permit shall be issued thereon to the applicant, such applicant shall pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the event a permit is issued by the department upon any application, it shall be its duty to notify both the director of fisheries and the director of ((~~game~~)) wildlife of such issuance.

Sec. 67. Section 4, chapter 107, Laws of 1939 as last amended by section 105, chapter 109, Laws of 1987 and RCW 90.24.030 are each amended to read as follows:

The petition shall be entitled "In the matter of fixing the level of Lake ..... in ..... county, Washington", and shall be filed with the clerk of the court and a copy thereof, together with a copy of the order fixing the time for hearing the petition, shall be served on each owner of property abutting on the lake, not less than ten days before the hearing. Like copies shall also be served upon the director of fisheries and of ((~~game~~)) wildlife and the director of ecology. The copy of the petition and of the order fixing time for hearing shall be served in the manner provided by law for the service of summons in civil actions, or in such other manner as may be prescribed by order of the court. For the benefit of every riparian owner abutting on a stream or river flowing from such lake, a copy of the notice of hearing shall be published at least once a week for two consecutive weeks before the time set for hearing in a newspaper in each county or counties wherein located, said notice to contain a brief statement of the reasons and necessity for such application.

Sec. 68. Section 106, chapter 109, Laws of 1987 and RCW 90.24.060 are each amended to read as follows:

Such improvement or device in said lake for the protection of the fish and game fish therein shall be installed by and under the direction of the board of county commissioners of said county with the approval of the respective directors of the department of fisheries, the department of ((~~game~~)) wildlife and the department of ecology of the state of Washington and paid for out of the special fund provided for in RCW 90.24.050.

Sec. 69. Section 13, chapter 139, Laws of 1967 ex. sess. as last amended by section 132, chapter 109, Laws of 1987 and RCW 90.48.142 are each amended to read as follows:

Any person who violates any of the provisions of this chapter, or fails to perform any duty imposed by this chapter, or violates an order or other determination of the department or the director made pursuant to the provisions of this chapter, including the conditions of a waste discharge permit issued pursuant to RCW 90.48.160, and in the course thereof causes the

death of, or injury to, fish, animals, vegetation or other resources of the state, or otherwise causes a reduction in the quality of the state's waters below the standards set by the department or, if no standards have been set, causes significant degradation of water quality, thereby damaging the same, shall be liable to pay the state damages in an amount equal to the sum of money necessary to restock such waters, replenish such resources, and otherwise restore the stream, lake or other water source to its condition prior to the injury, as such condition is determined by the department. Such damages shall be recoverable in an action brought by the attorney general on behalf of the people of the state of Washington in the superior court of the county in which such damages occurred: PROVIDED, That if damages occurred in more than one county the attorney general may bring action in any of the counties where the damages occurred. Any money so recovered by the attorney general shall be transferred to either the state ((~~game~~)) wildlife fund or the department of fisheries to use for food fish or shellfish management purposes and propagation, or to any other agency of the state having jurisdiction over the resource damaged and for which said moneys were recovered, as appropriate: PROVIDED, That the agency receiving such money shall utilize not less than one-half of said money on activities or projects within the county where the action was brought by the attorney general. No action shall be authorized under this section against any person operating in compliance with the conditions of a waste discharge permit issued pursuant to RCW 90.48.160.

Sec. 70. Section 2, chapter 71, Laws of 1955 as last amended by section 136, chapter 109, Laws of 1987 and RCW 90.48.170 are each amended to read as follows:

Applications for permits shall be made on forms prescribed by the department and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other relevant information deemed necessary by the department. Application for permits shall be made at least sixty days prior to commencement of any proposed discharge or permit expiration date, whichever is applicable. Upon receipt of a proper application relating to a new operation, or an operation previously under permit for which an increase in volume of wastes or change in character of effluent is requested over that previously authorized, the department shall instruct the applicant to publish notices thereof by such means and within such time as the department shall prescribe. The department shall require that the notice so prescribed shall be published twice in a newspaper of general circulation within the county in which the disposal of waste material is proposed to be made and in such other appropriate information media as the department may direct. Said notice shall include a statement that any person desiring to present his views to the department with regard to said application may do so in writing to the department, or

any person interested in the department's action on an application for a permit, may submit his views or notify the department of his interest within thirty days of the last date of publication of notice. Such notification or submission of views to the department shall entitle said persons to a copy of the action taken on the application. Upon receipt by the department of an application, it shall immediately send notice thereof containing pertinent information to the directors of fisheries and ((~~game~~)) wildlife and to the secretary of social and health services. When an application complying with the provisions of this chapter and the rules and regulations of the department has been filed with the department, it shall be its duty to investigate the application, and determine whether the use of public waters for waste disposal as proposed will pollute the same in violation of the public policy of the state.

Sec. 71. Section 2, chapter 185, Laws of 1973 1st ex. sess. as amended by section 2, chapter 54, Laws of 1977 and RCW 90.62.020 are each amended to read as follows:

For purposes of this chapter the following words mean, unless the context clearly dictates otherwise:

(1) "Board" means the pollution control hearings board.

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

(3) "Local government" means a county, city or town.

(4) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, or use of, or interference with, the natural resources of land, air or water in the state, which is required to be obtained from a state agency prior to constructing or operating a project in the state of Washington. Permit shall also mean a substantial development permit under RCW 90.58.140 and any permit, required by a local government for a project, that the local government has chosen to process pursuant to RCW 90.62.100(2) as now or hereafter amended. Nothing in this chapter shall relate to a permit issued by the department of labor and industries or by the utilities and transportation commission; nor to the granting of proprietary interests in publicly owned property such as sales, leases, easements, use permits and licenses.

(5) "Person" means any individual, municipal, public, or private corporation, or other entity however denominated, including a state agency and county.

(6) "Processing" and "processing of applications" mean the entire process to be followed in relation to the making of decisions on an application for a permit and review thereof as provided in RCW 90.62.040 through 90.62.080.

(7) "Project" means any new activity or any expansion of or addition to an existing activity, fixed in location, for which permits are required prior to construction or operation from (a) two or more state agencies as defined

in subsection (8) of this section, or (b) one or more state agencies and a local government, if the local government is processing permits or requests for variances or rezones pursuant to the procedure established by the provisions of this chapter, as provided by RCW 90.62.100(2) as now or hereafter amended. Such construction or operation may include, but need not be limited to, industrial and commercial operations and developments. For the purpose of part (a) of this subsection, the submission of plans and specifications for a hydraulic project or other work to the departments of fisheries and ((~~game~~)) wildlife pursuant to RCW 75.20.100 shall be considered to be an application for a permit required by one state agency.

(8) "State agency" means any state department, commission, board or other agency of the state however titled. For the limited purposes of this chapter only "state agency" shall also mean (a) any local or regional air pollution control authority established under chapter 70.94 RCW and (b) any local government when said government is acting in its capacity as a decision maker on an application for a permit pursuant to RCW 90.58.140.

Sec. 72. Section 7, chapter 451, Laws of 1985 and RCW 90.70.045 are each amended to read as follows:

(1) The chair shall hire staff for the authority. In so doing, the chair shall recognize the many continuing planning and research activities concerning Puget Sound water quality and shall seek to acquire competent and knowledgeable staff from state, federal, and local government agencies that are currently involved in these activities.

(2) As deemed appropriate, the chair may request the state departments of ecology, community development, fisheries, ((~~game~~)) wildlife, agriculture, natural resources, and social and health services to each assign at least one employee to the authority. The chair shall enter into an interagency agreement with agencies assigning employees to the authority. Such agreement shall provide for reimbursement, by the authority to the assigning agency, of all work-related expenditures associated with the assignment of the employees. During the term of their assignment, the chair shall have full authority and responsibility for the activities of these employees.

(3) The chair shall seek assignment of appropriate federal and local government employees under available means.

Sec. 73. Section 10, chapter 217, Laws of 1986 and RCW 91.14.100 are each amended to read as follows:

(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~~)) wildlife 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.

EXPLANATORY NOTE

The department of game, the director of game, the game commission, and the game fund were redesignated the department of wildlife, the director of wildlife, the wildlife commission, and the wildlife fund, respectively, by 1987 c 506. See note following RCW 77.04.020. This act corrects references to these agencies accordingly.

Passed the Senate February 8, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 37

[Senate Bill No. 6293]

REGISTERED NURSES—AUTHORITY REGARDING THE DETERMINATION AND PRONOUNCEMENT OF DEATH

AN ACT Relating to registered nurses regarding determination of death; and amending RCW 18.88.280.

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

Sec. 1. Section 28, chapter 202, Laws of 1949 as last amended by section 27, chapter 133, Laws of 1973 and RCW 18.88.280 are each amended to read as follows:

This chapter shall not be construed as (1) prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice professional nursing within the meaning of this chapter, (2) or preventing any person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency; (3) nor shall it be construed as prohibiting such practice of nursing by students enrolled in approved schools as may be incidental to their course of study nor shall it prohibit such students working as nursing aides; (4) nor shall it be construed as prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing service including those duties which involve minor nursing services for persons performed in hospitals, nursing homes or elsewhere under the direction of licensed physicians or the supervision of licensed, registered nurses; (5) nor shall it be construed as prohibiting or preventing the practice of nursing in this state by any legally qualified nurse of another state or territory whose

engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if such person does not represent or hold himself or herself out as a nurse licensed to practice in this state; (6) nor shall it be construed as prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any church by adherents thereof so long as they do not engage in the practice of nursing as defined in this chapter; (7) nor shall it be construed as prohibiting the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of his or her official duties; (8) permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof; (9) permitting the prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics; (10) permitting the prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye; (11) prohibiting the performance of routine visual screening; (12) permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW respectively; (13) permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulations of the spine; (14) permitting the practice of chiropody as defined in chapter 18.22 RCW; (15) permitting the performance of major surgery, except such minor surgery as the board may have specifically authorized by rule or regulation duly adopted in accordance with the provisions of chapter 34.04 RCW; (16) permitting the prescribing of controlled substances as defined in schedules I through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW; (17) prohibiting the determination and pronouncement of death.

Passed the Senate February 1, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 38

[Substitute Senate Bill No. 6252]
TRAFFIC INFRACTIONS—FAILURE TO APPEAR

AN ACT Relating to failure to comply with traffic infraction laws; and amending RCW 46.64.020 and 46.52.120.

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

Sec. 1. Section 46.64.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 345, Laws of 1987 and RCW 46.64.020 are each amended to read as follows:

(1) The legislature finds that:

(a) Traffic laws are necessary for the safe and expeditious flow of motor vehicle traffic.

(b) For traffic laws to be effective, they must be judiciously and fairly enforced. This enforcement includes the issuance of notices of infraction and citations and the assessment of fines and penalties.

(c) The adjudication of notices of infraction through a written and signed promise to respond as provided in this title is an integral and important part of the traffic law system.

(d) Approximately twenty percent of all people issued notices of infraction violate their written and signed promise to respond and obtain notices of failure to appear on their driving records. Through their actions, these people are destroying the effectiveness of the traffic law system and undermining the department of licensing regulatory control of drivers' licenses.

(e) Notices of failure to appear accumulated on a person's driving record shall be considered if they were issued after July 25, 1987.

(2) Any person ((~~wilfully~~)) violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of traffic infraction, as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she 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 is guilty of a misdemeanor regardless of the disposition of the notice of infraction.

((~~(2)~~)) (3) Any person who ((~~accumulates~~)) drives a motor vehicle within the state and has accumulated two or more ((~~charges~~)) notices of failure to appear on his or her driving record maintained by the department of licensing in any ((~~four~~)) five-year period as a result of noncompliance with the traffic infraction laws in any jurisdiction or court within Washington, or in any jurisdiction or court within other states which are signatories with Washington in a nonresident violator compact or reciprocal agreement under chapter 46.23 RCW, shall be guilty of failure to comply, a gross misdemeanor. A person is not subject to this subsection for failure to pay a fine for any pedestrian, bicycling, or parking offense.

((~~The arresting officer may determine probable cause for arrest under this subsection by verification of the person's driving record obtained from the department of licensing.~~)) Probable cause for arrest under this subsection is established by the officer obtaining, orally or in writing, information from the department of licensing that two or more notices of failure to appear are on the person's driving record.

Venue for prosecution shall be in the court with jurisdiction in the area of apprehension.

Sec. 2. Section 46.52.120, chapter 12, Laws of 1961 as last amended by section 1, chapter 99, Laws of 1984 and RCW 46.52.120 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The case record shall be maintained in two parts.

(a) One part shall be the employment driving record of the person. This part shall include all motor vehicle accidents in which the person is involved while the person is driving a commercial motor vehicle as an employee of another or an owner-operator, all convictions of the person for violation of the motor vehicle laws while the person is driving a commercial motor vehicle as an employee of another or an owner-operator, and all findings that the person has committed a traffic infraction while the person is driving a commercial motor vehicle as an employee of another or an owner-operator. The same reports shall be entered when the person is a law enforcement officer or fire fighter as defined in RCW 41.26.030, or a state patrol officer, and is driving an official police, state patrol, or fire department vehicle in the course of their official duties.

(b) The other part shall include all other accidents, convictions, and findings that the person has committed a traffic infraction.

(3) Such records shall be for the confidential use of the director and the chief of the Washington state patrol and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license or to provide proof of a person's failures to appear under RCW 46.64.020.

(4) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person

that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

Passed the Senate February 16, 1988.
Passed the House March 1. 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 39

[Senate Bill No. 6338]

REPORTS CONCERNING ABUSE OF CHILDREN OR DEPENDENT ADULTS—ONGOING CASE PLANNING AND CONSULTATION

AN ACT Relating to case planning and consultation for protective service for children and developmentally disabled persons; and reenacting and amending RCW 26.44.030.

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 3, chapter 206, Laws of 1987 and by section 23, chapter 512, Laws of 1987 and by section 10, chapter 524, Laws of 1987 and RCW 26.44.030 are each reenacted and amended to read as follows:

(1) When any practitioner, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect, he or she 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 or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(3) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her 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 or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her 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, with consultants designated by the department, 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((~~, with consultants designated by the department,~~)) 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) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(8) 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.

(9) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(10) Upon receiving a report of incidents, conditions, or circumstances of child abuse and neglect, the department shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(11) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(12) The department of social and health services shall, within funds appropriated for this purpose, use a risk assessment tool when investigating child abuse and neglect referrals. The tool shall be used, on a pilot basis, in three local office service areas. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall report to the ways and means committees of the senate and house of representatives on the use of the tool by December 1, 1988. The report shall include recommendations on the continued use and possible expanded use of the tool.

Passed the Senate February 10, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 40

[Senate Bill No. 6556]
BIRTH CERTIFICATE FEES

AN ACT Relating to specifying the uses of fees paid for birth certificates suitable for display; and amending RCW 70.58.107.

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

Sec. 1. Section 3, chapter 223, Laws of 1987 and RCW 70.58.107 are each amended to read as follows:

The department of social and health services shall charge a fee of eleven dollars for certified copies of records and for copies or information provided for research, statistical, or administrative purposes, and eight dollars for a search of the files or records when no copy is made. The department shall prescribe by regulation fees to be paid for preparing sealed files and for opening sealed files.

No fee may be demanded or required for furnishing certified copies of a birth, death, fetal death, marriage, divorce, annulment, or legal separation record for use in connection with a claim for compensation or pension pending before the veterans administration.

The state department of social and health services shall keep a true and correct account of all fees received and turn the fees over to the state treasurer on a weekly basis.

Local registrars shall charge the same fees as the state as hereinabove provided and as prescribed by department regulation, except that local registrars shall charge eleven dollars for the first copy of a death certificate and six dollars for each additional copy of the same death certificate when the additional copies are ordered at the same time as the first copy. All such fees collected, except for three dollars of each fee for the issuance of a certified copy, shall be paid to the jurisdictional health department.

All local registrars in cities and counties shall keep a true and correct account of all fees received under this section for the issuance of certified copies and shall turn three dollars of the fee over to the state treasurer on or before the first day of January, April, July, and October.

Three dollars of each fee imposed for the issuance of certified copies, except for copies suitable for display issued under RCW 70.58.085, at both the state and local levels shall be held by the state treasurer in the death investigations account established by RCW 43.79.445.

Passed the Senate February 11, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 11, 1988.
Filed in Office of Secretary of State March 11, 1988.

CHAPTER 41

[Engrossed Substitute House Bill No. 1450]

TAX DEFERRAL PROGRAM FOR MANUFACTURING OR RESEARCH AND DEVELOPMENT PROJECTS—EXTENSION

AN ACT Relating to excise tax deferrals and credits for manufacturing and research and development activities; and amending RCW 82.61.010, 82.61.040, 82.61.070, 82.62.040, and 82.60.050.

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

Sec. 1. Section 1, chapter 2, Laws of 1985 ex. sess. as last amended by section 1, chapter 497, Laws of 1987 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 new 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, ((~~1988~~)) 1994; or

(b) Acquisition prior to December 31, ((~~1988~~)) 1994, of new 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; or

(c) Acquisition of all new or used machinery, equipment, or other personal property for use in the production or casting of aluminum at an aluminum smelter or at facilities related to an aluminum smelter, if the plant was in operation prior to 1975 and has ceased operations or is in imminent danger of ceasing operations for economic reasons, as determined by the department, and if the person applying for a deferral (i) has consulted with any collective bargaining unit that represented employees of the plant pursuant to a collective bargaining agreement that was in effect either immediately prior to the time the plant ceased operations or during the period when the plant was in imminent danger of ceasing operations, on the proposed operation of the plant and on the terms and conditions of employment for wage and salaried employees and (ii) has obtained a written concurrence from the bargaining unit on the decision to apply for a deferral under this chapter ((~~or has received a concurrence waiver from the department of trade and economic development~~)); or

(d) Modernization projects involving construction, acquisition, or upgrading of equipment or machinery, including services and labor, which are commenced after May 19, 1987, and are intended to increase the operating efficiency of existing plants which are either aluminum smelters or aluminum rolling mills or of facilities related to such plants, if the plant was in operation prior to 1975, and if the person applying for a deferral (i) has consulted with any collective bargaining unit that represents employees of

the plant on the proposed operation of the plant and the terms and conditions of employment for wage and salaried employees and (ii) has obtained a written concurrence from the bargaining unit on the decision to apply for a deferral under this chapter ((~~or has received a concurrence waiver from the department of trade and economic development~~)).

(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 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 chapter, new machinery and equipment means either new to the taxing jurisdiction of the state or new to the certificate holder. Used machinery and equipment may be treated as new equipment and machinery 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.

(11) "Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

(12) "Operationally complete" means constructed or improved to the point of being functionally useable for the intended purpose.

(13) "Initiation of construction" means that date upon which on-site construction commences.

((~~(14) "Concurrence waiver" means a written waiver of an otherwise required concurrence from a bargaining unit. The department of trade and economic development may issue a concurrence waiver only if:~~

~~(a) The department determines an applicant has made a good faith effort to obtain the required concurrence from a bargaining unit; and~~

~~(b) The department determines that granting the concurrence waiver is clearly in the best interests of the people of this state.~~))

Sec. 2. Section 8, chapter 2, Laws of 1985 ex. sess. as amended by section 10, chapter 116, Laws of 1986 and RCW 82.61.040 are each amended to read as follows:

RCW 82.61.020 and 82.61.030 shall expire July 1, ((~~1988~~)) 1994.

Sec. 3. Section 6, chapter 2, Laws of 1985 ex. sess. as amended by section 11, chapter 116, Laws of 1986 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 of each year through ((~~1989~~)) 1995.

Sec. 4. Section 22, chapter 116, Laws of 1986 and RCW 82.62.040 are each amended to read as follows:

RCW 82.62.020 and 82.62.030 shall expire July 1, ((~~1988~~)) 1994.

Sec. 5. Section 10, chapter 232, Laws of 1985 and RCW 82.60.050 are each amended to read as follows:

RCW 82.60.030 and 82.60.040 shall expire July 1, ((~~1991~~)) 1994.

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 House March 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 42

[Engrossed Second Substitute House Bill No. 1835]
TRI-CITIES—ECONOMIC DIVERSIFICATION

AN ACT Relating to economic diversification in the Tri-Cities region; amending RCW 82.60.020, 82.62.010, and 43.168.020; adding a new section to chapter 4.24 RCW; creating new sections; making appropriations; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) Cutbacks in federal funds and programs to the Tri-Cities pose a substantial threat to the region and the state with massive lay-offs, loss of personal income, and declines in state revenues;

(2) The Tri-Cities is of critical significance to the state because of its leading role in the nuclear industry and its concentration of excellent scientists and engineers. Because of the presence of this highly trained workforce, this region requires a special state effort to diversify the local economy;

(3) There are key opportunities to broaden the economic base in the Tri-Cities including agriculture, high-technology, tourism, and regional exports;

(4) A coordinated state, local, and private sector effort offers the greatest potential to promote economic diversification and to provide support for new projects within the region; and

(5) Economic diversification efforts in the Tri-Cities area may bring to the area new industries which use hazardous and toxic chemicals. Concerns about the accidental release of such chemicals can inhibit economic development efforts. The legislature finds that local emergency response planning may mitigate environmental impacts of economic development efforts. Congress enacted legislation to coordinate emergency response planning efforts and directed preparation of local emergency response plans. The legislature further finds that nongovernmental persons are reluctant to serve on local emergency planning committees due to fear of civil liability.

It is the intent of the legislature to develop comprehensive programs to provide diversified economic development and promote job creation and employment opportunities for the citizens of the Tri-Cities area.

NEW SECTION. Sec. 2. The department of trade and economic development shall begin implementation of the priority goals established by the Tri-Cities diversification study conducted under chapter 501, Laws of 1987, as follows:

(1) To retain and expand existing businesses and industries within the region;

(2) To attract businesses and industries to the region that will provide new jobs;

(3) To encourage the formation of new businesses and industries in the region; and

(4) To assist in the development of a regional infrastructure favorable to economic diversification.

In evaluating these goals, the department, in consultation with the Tri-Cities diversification board, shall determine which objectives of these priority goals are most likely to lead to economic diversification. Consideration shall be given to potential jobs and income benefits, generation of additional fiscal support, increased private sector participation, and market forces supporting the proposed objectives. The department shall consider such additional studies and governmental agencies which could support the priority goals determined under this section.

For the purposes of sections 1 through 12 of this act, "department" means the department of trade and economic development.

NEW SECTION. Sec. 3. (1) The sum of one million two hundred forty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the administrative contingency fund to the employment security department for the purposes of sections 1 through 12 of this act. This appropriation shall be transferred to the department of trade and economic development for the purposes of sections 1 through 12 of this act.

(2) The sum of two hundred twenty-eight thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the general fund to the department of trade and economic development for the purposes of sections 1 through 12 of this act.

NEW SECTION. Sec. 4. (1) The department of trade and economic development shall designate a project manager within the department to facilitate the department's activities within the Tri-Cities region. This position shall be located in the Tri-Cities region. The manager's responsibilities shall include but not be limited to:

(a) Seeking to increase the use of existing state economic development programs in the Tri-Cities region;

(b) Helping to locate additional funds to be used for diversification activities;

(c) Forming committees to oversee activities within the priority areas;

(d) Coordinating evaluation of state diversification in the region;

(e) Seeking to increase the effectiveness of existing efforts to incubate new enterprises in the Tri-Cities region and to increase the resources devoted to the incubation of new enterprises;

(f) Facilitating technology transfer from the research base in the region to local businesses, including efforts to increase: The availability and accessibility of venture capital in the Tri-Cities region, especially for the early stages of enterprise development and for the expansion of existing enterprises, the accessibility of legal expertise, especially in regard to licenses

and patents, and the identification of and assistance to entrepreneurs with expertise in managing new product development; and

(g) Increasing the availability and coordination of resources devoted to the expansion, development, and modernization of enterprises in existing promising growth areas of the Tri-Cities regional economy such as the industrial applications of advanced technology and recreational development.

(2) A maximum of seventy-five thousand dollars shall be made available for the purposes of this section.

NEW SECTION. Sec. 5. There is established the Tri-Cities diversification board. The board shall consist of fifteen members appointed by the governor, including but not limited to representatives of local businesses, labor organizations, local governments, visitor and convention bureaus, local educational institutions, local associate development organizations, the agribusiness community, and local ports. In making the appointments, the governor shall endeavor to ensure that the appointees have experience in local diversification efforts. Vacancies shall be filled in the same manner as the original appointment.

The board shall review proposals for the diversification of the Tri-Cities area presented to it by the department.

Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 6. (1) In carrying out the purposes of (a) through (i) of this subsection, the department shall consult with the Tri-Cities diversification board. The department shall contract with local organizations, institutions, or agencies to perform one or more of the following:

(a) Develop a regional export program to identify potential products for export from the region and facilitate their export.

(b) Develop waterfront resources to facilitate increased tourism in the area.

(c) Conduct an import substitution program to connect existing industries with local suppliers of goods and services and identify market gaps that can be filled by start-up firms.

(d) Act as team coordinator of the Tri-Cities business and job retention team. The team may ensure the provision of retention services to small businesses and their employees. The team shall have equal representation from local businesses and local labor. The team may also have representatives from local educational institutions, the private industry council, and local governments. The subcontractor shall conduct a survey of local businesses and coordinate the delivery of marketing, technical, managerial, and training assistance appropriate to client businesses and employees. The surveys shall gather information about business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, the

availability of financing, and other appropriate information. The subcontractor shall coordinate team efforts with the Washington ambassadors program and select appropriate marketing, management, training, and technical specialists to assist the team on either a volunteer or subcontract basis. The subcontractor shall conduct an initial assessment of firms or workforces indicating a need for assistance to determine viability, problems, skill levels, public and private costs associated with any potential business failure or layoff, the potential for preventing closure or reduction-in-force, and the potential for a change in ownership, including employee and community buy-outs. If the initial assessment indicates the need for a more thorough study of the feasibility of various options for retaining a firm, the subcontractor may contract or subcontract for such a study under the following conditions:

(i) The small business is engaged in light or heavy manufacturing, the processing of agricultural products, or transportation services;

(ii) Only one study may be funded per business; and

(iii) A maximum of twenty-five thousand dollars in funds received from the state shall be made available per study.

(e) Develop and implement a training program in marketing for small firms producing products suitable for export outside the Tri-Cities area. The program may have a variety of training formats to meet the diverse needs of the targeted firms and should include, but need not be limited to: A presentation on the value and the potential of marketing cooperatives, training programs for sales personnel, and training in the development of marketing plans as part of the overall business plan. The subcontractor may work with public and private schools of business administration in developing the curriculum and may use other subcontractors in implementing the program.

(f) Facilitate the development and operation of small business incubators. The department may subcontract with existing small business incubators in the Tri-Cities or with local governments, community organizations, or educational institutions, to:

(i) Conduct small business incubator feasibility studies;

(ii) Provide technical, managerial, financing and marketing assistance to firms inside and outside incubators;

(iii) Facilitate the creation of an equity capital fund for use by incubated firms;

(iv) Market the services offered by small business incubators and encourage local entrepreneurs to use incubator services and facilities; and

(v) Consolidate the efforts of local educational institutions, the private industry council and the local small business development center in one incubator.

(g) Operate an investment opportunities office. The subcontractor should solicit business plans from local entrepreneurs and, when necessary, assist the entrepreneurs in the development of such plans.

(h) Provide for targeted business recruiting and business development. Business development should include specialized technical or managerial assistance in fields that promote the existing strengths of the region in such areas as agricultural services and processing, the industrial applications of advanced technology, and recreation and tourism.

Specific assistance should be given to small businesses in securing federal contracts from agencies participating in the small business innovation research program.

(i) Develop or conduct such other projects or programs as are approved by the department in consultation with the Tri-Cities diversification board.

(2) The department shall establish such criteria as it deems appropriate for delivery of the services supplied under contract as provided in this section. The department shall provide training and technical assistance to the personnel of any program, team, office, or other effort provided for under this section, as appropriate. Such training and technical assistance shall be funded out of moneys provided for under sections 4 and 8 of this act.

No contract may be entered into under this section until the department has consulted with the Tri-Cities diversification board.

(3) A maximum of six hundred fifteen thousand dollars shall be made available for purposes of this section.

NEW SECTION. Sec. 7. The sum of two hundred ninety-two thousand dollars, or so much thereof as may be necessary, is appropriated from the general fund for the biennium ending June 30, 1989, to Washington State University for the following purposes:

(1) Seventy-five thousand dollars shall be used for one faculty member to research and teach at the Tri-Cities university center in the field of business development, new enterprise development, and the transfer of new technologies to commercial applications.

(2) Seventy-five thousand dollars shall be used for one faculty member to research and teach at the Tri-Cities university center in the field of agribusiness and agricultural services development.

(3) One hundred thousand dollars shall be used for faculty and equipment for wine industry research.

(4) Forty-two thousand dollars shall be used for a high-capacity telecommunications link between Washington State University and the Tri-Cities university center. Washington State University may contract with the United States department of energy's Richland laboratory for the purposes of this section.

NEW SECTION. Sec. 8. The department shall also contract with local organizations, institutions, or agencies to:

(1) Establish a Tri-Cities agribusiness development program in cooperation with the IMPACT program, the Tri-Cities industrial development council, and the agricultural extension program of Washington State University. The subcontractor's duties in operating the agribusiness development program shall include but not be limited to:

(a) Seeking to increase the utilization of existing federal, state, and local programs for agricultural development, diversification, marketing, and processing in the Tri-Cities region;

(b) Seeking to increase the coordination and effectiveness of existing federal, state, and local programs for agricultural development, diversification, marketing, and processing in the Tri-Cities region; and

(c) Undertaking efforts to promote and further the existing strengths of the Tri-Cities region in value-added agricultural processing, agricultural services, specialty agriculture, and agricultural diversification.

(2) Evaluate the means for increasing the value of the wine industry to the Tri-Cities and for the region to become a principal center for the wine industry.

No contract may be entered into under this section until the department has consulted with the Tri-Cities diversification board.

A maximum of one hundred eight thousand dollars shall be made available for purposes of this section.

NEW SECTION. Sec. 9. The department shall be responsible for oversight and implementation of all efforts under this act. The department shall be responsible for a social and economic impact assessment; coordination of the multi-agency efforts; and shall act as liaison with local governments, the federal government, financial institutions, and other private entities to address financing and other needs in the Tri-Cities. The assessment shall be submitted as part of the report in section 13 of this act.

A maximum of fifty thousand dollars shall be made available for purposes of this section.

NEW SECTION. Sec. 10. The department shall conduct a study through the Tri-Cities university center on the feasibility of using heat generated by existing nuclear facilities for commercial industrial applications, taking into consideration, and drawing from as appropriate, existing studies on heating and on other warm water uses. Any state appropriations for this study are contingent upon and shall be no more than one-third of the federal funds provided for this study. A maximum of fifty thousand dollars shall be made available for purposes of this section.

NEW SECTION. Sec. 11. (1) Through an interagency agreement with the department, the employment security department shall provide enhanced retraining, support services, and job search assistance, including an out-of-area job search and relocation component, if needed, for dislocated workers in the Tri-Cities region. For the purpose of this section "dislocated

workers" means workers in the Tri-Cities who (a) have been terminated or laid off, or received a notice of termination or lay-off from employment and are eligible for or have exhausted their entitlement to benefits under Title 50 RCW; (b) have been terminated as a result of any permanent plant closure; (c) are long-term unemployed and are unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry; or (d) are farmers or other self-employed individuals who have been displaced due to economic conditions or natural disasters. Training and retraining assistance shall be designed to contribute to the diversification of the economy of the Tri-Cities region or to relieve economic dislocation and distress in the Tri-Cities region resulting from the sudden and severe loss of local sources of employment.

(2) The employment security department shall consult with and may subcontract with local educational institutions, local businesses, local labor organizations, local associate development organizations, local private industry councils, local social service organizations, and local governments in carrying out this program of training and services for dislocated workers in the Tri-Cities region.

(3) Training and retraining assistance provided under sections 1 through 12 of this act should include but need not be limited to the following areas: Entrepreneurial development and training; short-term job creation; training in the incubation of new business enterprises and training at incubator facilities; agriculture, agricultural processing, and agricultural services; the industrial applications of advanced technology; recreational and tourism development; and hazardous materials clean-up.

(4) The employment security department shall subcontract with local organizations, institutions, or agencies to provide expanded services to dislocated workers, older unemployed workers, and the long-term unemployed. Such services shall be either direct or referral services to the unemployed, and should include, but need not be limited to: Credit counseling; social services including marital counseling; psychotherapy or psychological counseling; mortgage foreclosures and utilities problems counseling; drug and alcohol abuse services; and medical services

(5) The employment security department shall coordinate the services provided in this section with all other services provided by the department and with the other diversification efforts undertaken by state and local government agencies on behalf of the Tri-Cities region.

(6) Subcontractors shall conduct outreach efforts to encourage the unemployed to seek assistance.

(7) A maximum of three hundred seventy thousand dollars shall be made available for purposes of this section. These funds shall be used for

programs and services in addition to those provided by the employment security department using existing federal and state employment and training services.

(8) The department shall make every effort to procure additional federal and other moneys for the efforts enumerated in this section.

NEW SECTION. Sec. 12. Through an interagency agreement with the department, the department of community development shall enhance its services and programs available in the Tri-Cities. Such services and programs may include, but need not be limited to: Assisting in developing the food processing industry, agribusiness financing, loans to businesses, and the funding of diversification projects or studies.

A maximum of two hundred thousand dollars shall be made available for purposes of this section.

NEW SECTION. Sec. 13. The department shall report back to the legislature by December 31, 1988, on the success of activities under sections 1 through 11 of this act.

NEW SECTION. Sec. 14. Sections 1 through 12 of this act shall expire July 1, 1990.

NEW SECTION. Sec. 15. A new section is added to chapter 4.24 RCW to read as follows:

Any person who is appointed by the state emergency response commission under the authority of Sec. 301(c) of Title III of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Sec. 11001) to serve on the state hazardous materials planning committee or a local emergency planning committee who, in good faith, assists in the development or review of local plans to respond to hazardous materials incidents is not liable for civil damages as a result of any act or omission in the development, review, or implementation of such plans unless the act or omission constitutes gross negligence or wilful misconduct.

Sec. 16. Section 2, chapter 232, Laws of 1985 as amended by section 12, chapter 116, Laws of 1986 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) 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; or (b) a metropolitan statistical area, as defined by

the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent. Applications under this subsection (3)(b) shall be filed by April 30, 1989.

(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 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; or

(iii) 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. 17. Section 15, chapter 116, Laws of 1986 and RCW 82.62.010 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 credit under this chapter.

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

(3) "Eligible area" means: (a) 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; or (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent. Applications under this subsection (3)(b) shall be filed by April 30, 1989.

(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.

Sec. 18. Section 2, chapter 164, Laws of 1985 as amended by section 2, chapter 461, Laws of 1987 and RCW 43.168.020 are each amended to read as follows:

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

(1) "Committee" means the Washington state development loan fund committee.

(2) "Department" means the department of community development.

(3) "Director" means the director of the department of community development.

(4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (b) a metropolitan statistical area, as defined by

the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent. Applications under this subsection (4)(b) shall be filed by April 30, 1989; or ((~~(b)~~)) (c) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(7) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities.

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. 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 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 43

[Senate Bill No. 6675]

FAMILY INDEPENDENCE PROGRAM

AN ACT Relating to authorizing and modifying the evaluation plan of the family independence program with modifications to the family opportunity councils; amending RCW 74-.21.020, 74.21.060, 74.21.140, and 74.21.904; adding a new section to chapter 74.21 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 74.21 RCW to read as follows:

The family independence program implementation plan submitted to the legislature pursuant to RCW 74.21.140 and 74.21.200 is approved. The governor or the governor's designee is authorized to sign and complete all necessary agreements with the federal government, provided that nothing in the agreements is inconsistent with chapter 74.21 RCW.

Sec. 2. Section 2, chapter 434, Laws of 1987 and RCW 74.21.020 are each amended to read as follows:

The legislature hereby establishes as state policy the goal of economic independence for employable adults receiving public assistance, through employment, training, and education. The legislature finds that children living in families with incomes below the needs standard have reduced opportunities for physical and intellectual development. A family's economic future is frequently not improved by the current program.

Therefore, in order to break the cycle of poverty and dependence, a family independence program is established. Participating families are to receive benefits under this program at no less than they would otherwise have been entitled to receive.

The legislature finds that the state has a vital interest in ensuring that citizens who are in economic need are provided appropriate financial assistance. It is the intent of the legislature to maintain the existing partnership between state and federal government and that this program remain part of the federal welfare entitlement program. The legislature seeks federal authority for a five-year demonstration project and recognizes that waivers and congressional action may be required to achieve our purpose. The legislature does not seek a block grant approach to welfare.

The legislature recognizes that any program intended to assist new and current public assistance recipients will be more likely to succeed when the state, private sector, and recipients work together.

The legislature also recognizes the value of building on successful programs that utilize the development of networking and mentoring strategies to assist public assistance recipients to gain self-sufficiency. The legislature further encourages public-private cooperation in the areas of job readiness

training, education, job training, and work opportunities, including community-based organizations as service providers in these areas through contractual relationships.

The legislature finds that the goal of economic independence requires increased efforts to assist parents in exercising their children's right to economic support from absent parents.

The legislature recognizes the substantial participation in the workforce of women with preschool children, and the difficulty in reentering employment after long absences.

The legislature further recognizes that public assistance recipients can play a major role in setting their own goals.

The objectives of this chapter are to assure that: The maximum number of recipients of public assistance become independent and self-sufficient through employment, training, and education; caseloads be correspondingly reduced on a long-term basis; financial incentives be available to recipients participating in job readiness, education, training, and work programs; the number of children growing up in poverty be substantially reduced; and unemployable recipients be afforded a basic level of financial and medical assistance consistent with the state's financial capabilities.

Sec. 3. Section 6, chapter 434, Laws of 1987 and RCW 74.21.060 are each amended to read as follows:

(1) The executive committee shall establish a family opportunity advisory council in each of the department's regions to make recommendations on the social services, procedures, and income maintenance operations used in the family independence program. The councils shall also assist in providing mentors, mutual self-help, and information on alternatives to welfare dependency. The councils shall include: (a) Individuals currently receiving assistance; (b) individuals who have received public assistance in the past but have subsequently achieved economic independence; and (c) persons who are board members or employees of nonprofit organizations providing services of the types offered to family independence program recipients, including those with experience in developing self-esteem and individual motivation. A regional advisory council may establish panels representing specific geographic areas within the region.

(2) Each advisory council shall nominate three persons from which the executive committee shall elect one person from each region to be a member of the advisory committee authorized by RCW 74.21.050. Appointments shall be for a term of two years. Terms may be renewed for one additional two-year term. Three regional appointments shall initially be for a term of one year. The regional representatives shall constitute the consumer and enrollee representatives required by 74.21.050.

(3) Recipients and former recipients may be paid a per diem rate established by the executive committee. Members may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Recipients

and former recipients may also be reimbursed for dependent care expenses required to permit their participation in the family opportunity advisory councils, the executive committee, and the family independence program advisory committee.

(4) The department may, within available funds, provide grants to each family opportunity council to assist and support their activities and to assist in the recruitment and training of volunteer mentors.

Sec. 4. Section 14, chapter 434, Laws of 1987 and RCW 74.21.140 are each amended to read as follows:

(1) By January 1, 1988, the executive committee shall submit to the legislature:

(a) A child-care plan, which may include creative solutions to assist enrollees in making child-care arrangements;

(b) In consultation with the superintendent of public instruction, a plan for assisting high school students who are parents or pregnant to remain in school or complete their high school education;

(c) A plan for motivating those who are discouraged to seek self-sufficiency through work, education, or training;

(d) An employment plan for enrollees; and

(e) A plan for phased-in implementation of the family independence program.

(2) By January 1, 1988, the legislative budget committee, after consultation with the executive committee, shall submit to the legislature:

(a) An evaluation plan satisfactory to the federal government, including a plan for analysis, within available funds, of:

(i) The costs and effectiveness of the family independence program;

(ii) The extent to which education and training opportunities have led to employment and economic independence;

(iii) The extent to which support services have been provided for such education and training opportunities;

(iv) The impact of support services, training opportunities, and employment on the well-being of the children and families of enrollees;

(v) ((~~The impact of the family independence program on the labor market opportunities available to nonenrollees;~~

~~(vi)~~)) The impact of the family independence program on the early childhood education assistance program;

((~~(vii)~~)) (vi) A comparison of the family independence program enrollees with a sample of aid to families with dependent children recipients entering assistance between July 1, 1987, through June 30, 1988, to determine the characteristics of the caseloads of the family independence program and the aid to families with dependent children program, including demographic characteristics, employment, training, and educational histories, spells on assistance, and reasons for entry onto and exit from assistance;

((~~(viii)~~)) (vii) Such administrative and operational factors as may be requested by the executive committee;

((~~(ix)~~)) (viii) A longitudinal study over time of a sample of public assistance recipients or persons at risk of becoming eligible for assistance, to determine the causes of public dependency and the impact of changes in the economy or of public programs on dependency, work, or other relevant behaviors of the sample population.

(3) The legislative budget committee shall cause the evaluation plan to be implemented ((~~subject to legislative approval~~)) as approved by the legislative budget committee in a manner that will insure the independence of the evaluation through appropriate arrangements, which may include contracts, with objective evaluators. The evaluation plan and all evaluation products shall receive the review and comment of evaluation advisory groups to be convened by the Washington institute of public policy and which include representatives of the executive committee, appropriate legislative committee staffs, persons from the state's higher education institutions, staff members of the department and the employment security department, recipients, and former recipients. The reviews shall consider relevance to state policy and budget concerns, methodological procedure, implementation, and results.

(4) The first report of this evaluation shall be submitted to the legislature no later than ((~~November 16, 1988~~)) December 1, 1989, and annually thereafter, with a final report due no later than November 15, 1993.

Sec. 5. Section 25, chapter 434, Laws of 1987 and RCW 74.21.904 are each amended to read as follows:

This chapter shall expire on June 30, ((~~1989~~)) 1993, unless extended by law.

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

Passed the Senate March 9, 1988.
Passed the House March 8, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 44

[Engrossed Substitute Senate Bill No. 6200]

UTILITY SERVICES—REDUCED RATES FOR LOW-INCOME DISABLED CITIZENS

AN ACT Relating to reduced utility rates; and amending RCW 74.38.070.

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

Sec. 1. Section 1, chapter 116, Laws of 1979 as amended by section 1, chapter 160, Laws of 1980 and RCW 74.38.070 are each amended to read as follows:

(1) Notwithstanding any other provision of law, any county, city, town, municipal corporation, or quasi municipal corporation providing utility services may provide such services at reduced rates for low income senior citizens or low income disabled citizens: PROVIDED, That, for the purposes of this section, "low income senior citizen" or "low income disabled citizen" shall be defined by appropriate ordinance or resolution adopted by the governing body of the county, city, town, municipal corporation, or quasi municipal corporation providing the utility services except as provided in subsection (2) of this section. Any reduction in rates granted in whatever manner to low income senior citizens or low income disabled citizens in one part of a service area shall be uniformly extended to low income senior citizens or low income disabled citizens in all other parts of the service area.

(2) For purposes of implementing this section by any public utility district, (a) "low income senior citizen" means a person who is sixty-two years of age or older and whose total income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 84.36.381(5)(b), as now or hereafter amended and (b) "low income disabled citizen" means a person qualifying for special parking privileges under RCW 46.16.381(1)(a) through (f) or a blind person as defined in RCW 74.18.020 and whose income, including that of his or her spouse or cotenant, does not exceed the amount specified in RCW 70.164.020(4).

Passed the Senate February 5, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 45

[Engrossed Substitute House Bill No. 1594]
WATER USE EFFICIENCY STUDY

AN ACT Relating to the water use efficiency study; amending RCW 43.83B.300; creating new sections; providing an expiration date; and declaring an emergency.

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

Sec. 1. Section 1, chapter 1, Laws of 1977 ex. sess. as last amended by section 1, chapter 343, Laws of 1987 and RCW 43.83B.300 are each amended to read as follows:

The legislature finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate

emergency water supply conditions arising from the drought forecast for the state of Washington during 1977 and during 1987.

The legislature further finds that there is a continuing agricultural water supply shortage in many areas of the state and that, in relation to the lessening of that unsatisfactory condition, there is an urgent need to both improve water supply facilities and replace other such facilities.

The legislature further finds that in addition to water storage facilities or other augmentation programs, improved efficiency of water use could provide an important new supply of water in many parts of the state with which to meet future water needs and that improved efficiency of water use should receive greater emphasis in the management of the state's water resources.

In order to provide needed capital for the planning, acquisition, construction, and improvement of water supply facilities to withdraw and distribute water to alleviate unsatisfactory water supply conditions arising from droughts occurring from time to time in the state of Washington, and to carry out a comprehensive water use efficiency study for the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43-.83B.360 through 43.83B.375 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.

NEW SECTION. Sec. 2. A committee shall be charged with the task of carrying out a comprehensive study of water use efficiency in this state. The study, however, shall neither be considered a water conservation study, nor a comprehensive study encompassing the exclusive means of creating a new supply of water which limits or restricts the use of water storage facilities as an option in creating a new supply of water. The committee, in consultation with other interested agencies, organizations, and the public, shall investigate and evaluate opportunities and means for achieving water use efficiency improvements. The evaluation shall include but not be limited to the following:

(1) Review and analysis of water use efficiency initiatives in other states;

(2) Review of the water use efficiency recommendations of the western governors association;

(3) Identification of existing institutional and economic disincentives to efficient water use;

(4) Identification of existing and potential incentives that could bring about improved efficiency of use;

(5) Identification of alternatives for improving efficiency of use;

(6) Estimation of potential water savings and public and private costs from implementing alternatives;

(7) Identification of a recommended approach for improving water use efficiency in municipal and industrial water supply uses, irrigated agriculture and other major out–of–stream uses, and in–stream uses;

(8) Evaluation of the terminology and development of definitions and methods relating to the efficient utilization of water in chapters 90.03, 90-.14, 90.22, 90.44, and 90.54 RCW, and such other provisions of existing law as it finds appropriate;

(9) Recommendations for a public education program for efficient use of water; and

(10) Development of recommendations for any needed changes in laws, rules, policies, procedures, and programs to facilitate improved water use efficiency.

NEW SECTION. Sec. 3. (1) The committee created in section 2 of this act shall consist of the following voting members:

(a) Four members of the house of representatives, appointed by the speaker, two from each major political party;

(b) Four members of the senate, appointed by the president of the senate, two from each major political party;

(c) One individual representing the interests of local government;

(d) One individual representing producers of irrigated agricultural products;

(e) One individual representing environmental interests;

(f) One individual representing the interests of the timber industry;

(g) One individual representing the interests of industries' use of water;

(h) One individual representing Indian tribes;

(i) One individual representing the interests of public water utilities;

(j) One individual representing owners and operators of cattle farms;

(k) One individual representing the state–wide water resources association created under chapter 87.76 RCW;

(l) One individual representing hydro power utilities;

(m) One individual representing the recreational or commercial fishing interest; and

(n) One individual representing the interests of water–oriented recreationists.

(2) An individual from each of the following departments shall be appointed by the director of the department as a nonvoting member of the committee: Ecology, agriculture, social and health services, fisheries, wildlife, and natural resources.

(3) An individual representing the office of the governor shall also be a nonvoting member of the committee. This individual shall convene the initial meeting of the committee and act as the presiding officer of the committee until the committee elects a chair as provided in subsection (6) of this section.

(4) The governor shall appoint the members of the committee listed in subsections (1) (c) through (n) of this section. Wherever possible, the various interest groups listed in each of subsections (1) (c) through (n) of this section shall attempt to identify one nominee in common to represent the interest groups listed in that subsection. Any nominations for appointments to fill positions on the committee listed in subsections (1) (c) through (n) of this section shall be submitted to the director of ecology not later than ten business days after the effective date of this section. The director shall forward such nominations to the governor immediately thereafter for the governor's consideration in appointing the members of the committee.

(5) Members of the committee shall serve without compensation. A member representing a state agency or the office of the governor shall be reimbursed, by his or her employing agency or office, for travel expenses in accordance with RCW 43.03.050 and 43.03.060. Members of the committee who are members of the legislature shall be reimbursed as provided in chapter 44.04 RCW. All other members of the committee shall be reimbursed by the department of ecology for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) At the initial meeting of the committee, the voting members of the committee shall elect a chair from among themselves. The chair shall preside over the meetings of the committee. The committee shall expire December 31, 1988.

(7) The committee shall consult on a regular and frequent basis with interested organizations and individuals. The committee shall hold public meetings to inform the public about the study, and to receive public comments on a draft report of its study findings and its recommendations.

(8) The committee shall document public comments and the committee's recommendations in a final water use efficiency report. The final report shall also include an estimate of staffing and funding needed to carry out the recommended approach.

NEW SECTION. Sec. 4. It shall be the responsibility of the department of ecology to provide staff support to the committee and to identify water use efficiency options for the tasks identified in section 2 of this act. For the purposes of this section, the department of ecology shall consult with the water research center at Washington State University.

NEW SECTION. Sec. 5. The committee shall report its findings and recommendations to the legislature no later than December 31, 1988. The

department shall not implement such recommendations by rule or regulation except upon the enactment of enabling legislation based upon the committee's recommendations.

NEW SECTION. Sec. 6. No aspect of the study authorized by sections 1 through 3 of this act may authorize any interference whatsoever with existing water rights. The study shall in all respects be subject to the provisions of RCW 43.83B.325 to the same extent as any provision of RCW 43.83B.300 through 43.83B.345.

NEW SECTION. Sec. 7. Sections 2 through 6 of this act shall expire June 30, 1989.

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 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 46

[Second Substitute Senate Bill No. 6513]
EMERGENCY DROUGHT RELIEF

AN ACT Relating to emergency drought relief; amending RCW 43.83B.210, 43.83B.300, 43.83B.310, 43.83B.342, and 43.83B.344; and declaring an emergency.

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

Sec. 1. Section 3, chapter 295, Laws of 1975 1st ex. sess. as last amended by section 4, chapter 343, Laws of 1987 and RCW 43.83B.210 are each amended to read as follows:

The department of ecology is authorized to make loans or grants or combinations thereof: (1) From funds under RCW 43.83B.010 through 43.83B.110 to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands; or((;)) (2) from emergency agricultural water supply funds under RCW 43.83B.300 when required ((~~because of emergency drought conditions;~~)) to provide water ((~~to previously irrigated lands~~)) to alleviate emergency drought conditions to assure the survival of irrigated crops and the state's fisheries. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project costs for any single proposed project: PROVIDED, That for

purposes authorized by RCW 43.83B.300, 43.83B.310, and 43.83B.385 the department of ecology may make a loan up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost and the grant portion for any single project shall not exceed ((~~fifteen~~)) twenty percent of the total ((~~single~~)) project cost except that, for activities forecast to have fifty percent or less of normal seasonal water supplies, the grant portion for any single project or entity shall not exceed forty percent of the total project cost. No single entity shall receive more than ten percent of the total funds available for drought relief. These funds shall not be used for nonagricultural drought relief purposes unless there are no other capital budget funds available for these purposes. The total expenditures for nonagricultural drought relief purposes shall not exceed ten percent of the total funds available for drought relief purposes on the effective date of this 1988 act. Any grant or grant portion of a combination loan and grant from funds under RCW 43-.83B.010 through 43.83B.110 for any single proposed project shall not exceed fifteen percent of the eligible project costs: PROVIDED, That the fifteen percent limitation established herein shall not be applicable to project commitments which the director or deputy director of the state department of ecology made to the bureau of reclamation of the United States department of interior for providing state funding at thirty-five percent of project costs during the period between August 1, 1974, and June 30, 1975.

The department of social and health services is authorized to make grants of up to forty percent of the cost of construction of any eligible project necessitated by the 1977 drought conditions. Such grants may be made only to public bodies as defined in RCW 43.83B.050 for municipal and industrial water supply and distribution facilities.

Sec. 2. Section 1, chapter 1, Laws of 1977 ex. sess. as last amended by section 1, chapter 343, Laws of 1987 and RCW 43.83B.300 are each amended to read as follows:

The legislature finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during 1977 and during 1987 through 1989.

The legislature further finds that there is a continuing ((~~agricultural~~)) water supply shortage in many areas of the state and that((~~, in relation to the lessening of that unsatisfactory condition, there is an urgent need to both improve water supply facilities and replace other such facilities~~)) there is an urgent need to assure the survival of irrigated crops and of the state's fisheries.

In order to provide needed ((~~capital~~)) moneys for the planning, acquisition, construction, and improvement of water supply facilities ((~~to withdraw and distribute water~~)) and for other appropriate measures to assure the survival of irrigated crops and/or the state's fisheries to alleviate ((~~unsatisfactory~~)) emergency water supply conditions arising from droughts occurring from time to time in the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43-.83B.375 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. 3. Section 3, chapter 1, Laws of 1977 ex. sess. as amended by section 2, chapter 343, Laws of 1987 and RCW 43.83B.310 are each amended to read as follows:

In addition to the powers previously vested in the department of ecology to permit the withdrawal of public surface and ground waters by chapters 90.03 and 90.44 RCW, the department of ecology is authorized to permit withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, for any period ending not later than ((~~October 31, 1987~~)) April 30, 1989, for any beneficial use. The department may issue such emergency permits if, after investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(1) The waters proposed for withdrawal are to be used in relation to beneficial use involving a previously established activity or purpose; and

(2) The previously established activity or purpose was furnished water through rights applicable to the use of a public water body which are not exercisable due to the lack of water arising from natural drought conditions; and

(3) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (a) to assure the maintenance of fisheries requirements, and (b) to protect federal and state interests including, among others, power generation, navigation, and existing water rights.

All permits issued hereunder shall contain provisions which allow for termination of authorized withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in subsection (3) of this section.

Sec. 4. Section 8, chapter 343, Laws of 1987 and RCW 43.83B.342 are each amended to read as follows:

The department of ecology is authorized to expend funds from the emergency water supply appropriations for necessary drought-related

equipment and to employ a maximum of ((~~two and one-half~~)) four full-time equivalent staff positions until ((~~October 31, 1987~~)) April 30, 1989, for the purpose of planning and administering drought relief activities, including the development of a state drought contingency plan for responding to future drought conditions.

Sec. 5. Section 9, chapter 343, Laws of 1987 and RCW 43.83B.344 are each amended to read as follows:

For a limited period of time ending ((~~October 31, 1987~~)) April 30, 1989, a water right may be temporarily changed in purpose or place of use or point of diversion consistent with existing state policy allowing transfer or lease of waters between willing parties as provided for in RCW 90.03.380, 90.03.390, and 90.44.100 without complying with any requirements of (1) notice of newspaper publication or (2) the state environmental policy act, chapter 43.21C RCW, when such changes are necessary to respond to emergency water supply conditions as determined by the department of ecology. The temporary changing of a water right as authorized under this section shall not be admissible as evidence in either the supporting or the contesting of the validity of water claims in State of Washington, Department of Ecology v. Acquavella, or any similar proceeding where the existence of a water right is at issue.

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

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 47

[Engrossed Second Substitute Senate Bill No. 6724]
WATER RESOURCE POLICY

AN ACT Relating to water resources; amending RCW 43.83B.300, 90.54.030, 90.54.040, and 90.54.050; reenacting and amending RCW 90.22.010; adding new sections to chapter 90-.54 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. Section 1, chapter 1, Laws of 1977 ex. sess. as last amended by section 1, chapter 343, Laws of 1987 and RCW 43.83B.300 are each amended to read as follows:

The legislature finds that the fundamentals of water resource policy in this state must be reviewed by the legislature to ensure that the water resources of the state are protected and fully utilized for the greatest benefit

to the people of the state of Washington. The legislature further finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during 1977 and during 1987.

The legislature further finds that there is a continuing agricultural water supply shortage in many areas of the state and that, in relation to the lessening of that unsatisfactory condition, there is an urgent need to both improve water supply facilities and replace other such facilities.

In order to study the fundamentals of water resource policy of the state and to provide needed capital for the planning, acquisition, construction, and improvement of water supply facilities to withdraw and distribute water to alleviate unsatisfactory water supply conditions arising from droughts occurring from time to time in the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43-.83B.375 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.

NEW SECTION. Sec. 2. A new section is added to chapter 90.54 RCW to read as follows:

(1) The director of ecology shall contract with an independent fact-finding service for the purpose of consulting with all user groups and parties interested in Washington's water resource policy, including but not limited to:

(a) The departments of ecology, agriculture, social and health services, fisheries, wildlife, and natural resources;

(b) Municipal users of water;

(c) Agricultural interests;

(d) The governor's office;

(e) Environmental interests;

(f) Interests of industrial users of water;

(g) Indian tribes;

(h) Interests of public water utilities;

(i) Interests of recreational uses other than fishing;

(j) Public and private hydropower generating utilities;

(k) Interests of sport and commercial fishing; and

(l) Interests of the forest products industry.

(2) The fact-finding service shall consult with, obtain, and document the opinions of the interested parties, and may facilitate discussions between them on the fundamentals of water resource policy and the need, if any, to change or clarify the current policy for the state. The fact-finding service shall also identify and evaluate the clarity and consistency of state water allocation laws with the current policy based on those laws.

(3) The fact-finding service shall report its findings in a written report to the joint select committee established pursuant to section 3 of this act. The report shall be submitted to the joint select committee by June 30, 1988, unless the committee provides for an extension of the due date.

(4) The fact-finding service and the joint select committee shall consider the reports and recommendations of state and federal studies pertaining to allocation, augmentation, conservation, and efficient use of the water resources of this state, including but not limited to the department of ecology's instream resources and water allocation program review. By considering these studies, the fact-finding service and the joint select committee shall not duplicate the work already completed in such studies.

(5) Until July 1, 1989, or until the legislature has passed legislation based on recommendations from the joint select committee, whichever comes first, the department of ecology:

(a) Shall not amend or alter the current guidelines, standards, or criteria governing the instream flow and water allocation elements of the state water resources program established pursuant to chapters 90.22 and 90.54 RCW and set forth in chapters 173-500 to 173-596 WAC;

(b) Shall not adopt any water reservation under RCW 90.54.050, set forth in chapters 173-500 to 173-596 WAC, or the preferred alternative in the instream resources and water allocation environmental impact statement; and

(c) For any new application for surface water received under chapter 90.03 RCW after the effective date of this act, shall not issue any permanent appropriation permits and may only issue new temporary appropriation permits on streams by utilizing (i) the existing minimum or base flows adopted pursuant to chapters 90.54 and 90.22 RCW or (ii) the case-by-case process to maintain food fish and game fish populations as provided in RCW 75.20.050. These water appropriations shall not reduce flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic, recreational, water quality, other environmental values, and navigational values, as provided in RCW 90.54.020 and chapters 90.03 and 90.22 RCW. These temporary permits shall be conditioned so that the appropriation may be altered based upon the enactment of legislation or adoption of regulations resulting from recommendations made pursuant to section 3 (3) and (4) of this act.

This subsection does not apply to any emergency water permits or transfers authorized under RCW 43.83B.300 through 43.83B.344, and shall not affect any existing water rights established pursuant to law.

(6) The department of ecology shall provide staff support in the fact-finding process.

(7) This section shall expire on June 30, 1989.

NEW SECTION. Sec. 3. A new section is added to chapter 90.54 RCW to read as follows:

(1) There is hereby created a joint select committee on water resource policy to address the findings reached by the fact-finding service pursuant to section 2 of this act. The committee shall consist of twelve voting members appointed jointly by the speaker of the house of representatives and the president of the senate. The speaker of the house of representatives and the president of the senate may each appoint nonvoting members to participate in the meetings of the joint select committee. The voting membership shall be equally divided from each major political caucus and shall, to the extent possible, represent all major water interests, including but not limited to agriculture, fisheries, municipal, environmental, recreational, and hydroelectric.

(2) The staff support shall be provided by the senate committee services and the office of program research as mutually agreed by the cochairs of the joint select committee. The cochairs shall be designated by the speaker of the house of representatives and the president of the senate.

(3) In addition to responsibilities identified in subsection (6) of this section, the purpose of the joint select committee shall be to address and recommend in a written report to the full legislature the fundamentals of water resource policy for the state of Washington. The joint select committee shall review and evaluate the report of the fact-finding service and shall hold a minimum of four public hearings throughout the state.

The committee shall recommend in its report the procedures for allocating water resources of the state, considering the findings of the fact-finding service and the present and future demands on the use of water resources. The joint select committee shall further evaluate the need to prioritize the use of the water resources of this state.

(4) The joint select committee may include in its report recommendations for revisions to existing laws to set forth the water policies of the state and may also recommend revisions to existing law to give direction to the department of ecology and other agencies and officials in carrying out the fundamental water policies of the state as adopted by the legislature.

(5) The joint select committee shall submit its written report of findings and recommendations to the 1989 legislature. A draft report shall be completed by December 1, 1988, and distributed to interested parties. The final report shall be distributed and a public hearing shall be held no later than one week prior to the first day of the 1989 legislative session.

(6) The joint select committee shall monitor the actions taken to implement the recommendations made in the written report required in subsection (5) of this section and the results of any legislation enacted affecting the fundamental water resource policies of the state. At its discretion, the joint select committee may address issues affecting the allocation, efficient use, conservation, or distribution of surface and ground water to achieve the maximum benefits to the state. The committee shall report periodically to the legislature.

(7) This section shall expire June 30, 1991.

Sec. 4. Section 3, chapter 225, Laws of 1971 ex. sess. and RCW 90-.54.030 are each amended to read as follows:

For the purpose of insuring that the department is fully advised in relation to the performance of the water resources program provided in RCW 90.54.040, and to provide information and support to the fact-finding service and the joint select committee established in sections 2 and 3 of this 1988 act, the department is directed to become informed with regard to all phases of water and related resources of the state. To accomplish this objective the department shall:

(1) Collect, organize and catalog existing information and studies available to it from all sources, both public and private, pertaining to water and related resources of the state;

(2) Develop such additional data and studies pertaining to water and related resources as are necessary to accomplish the objectives of this chapter;

(3) Determine existing and foreseeable uses of, and needs for, such waters and related resources;

(4) Develop alternate courses of action to solve existing and foreseeable problems of water and related resources and include therein, to the extent feasible, the economic and social consequences of each such course, and the impact on the natural environment.

All the foregoing shall be included in a "water resources archive" established and maintained by the department. The department shall develop a system of cataloging, storing and retrieving the information and studies of the archive so that they may be made readily available to and effectively used not only by the department but by the public generally.

Sec. 5. Section 4, chapter 225, Laws of 1971 ex. sess. and RCW 90-.54.040 are each amended to read as follows:

(1) The department, through the adoption of appropriate rules, is directed, as a matter of high priority to insure that the waters of the state are utilized for the best interests of the people, to develop and implement in accordance with the policies of this chapter a comprehensive state water resources program which will provide a process for making decisions on future water resource allocation and use. The department may develop the program in segments so that immediate attention may be given to waters of a

given physioeconomic region of the state or to specific critical problems of water allocation and use.

The current guidelines, standards, or criteria governing the elements of the water resource program established pursuant to this subsection shall not be altered or amended after the effective date of this 1988 section, in accordance with section 2(5) of this 1988 act.

(2) In relation to the management and regulatory programs relating to water resources vested in it, the department is further directed to modify existing regulations and adopt new regulations, when needed and possible, to insure that existing regulatory programs are in accord with the water resource policy of this chapter and the program established in subsection (1) of this section. The current guidelines, standards, or criteria governing the department's implementation of this subsection shall not be altered or amended after the effective date of this 1988 section, in accordance with subsection (1) of this section.

(3) The department is directed to review all statutes relating to water resources which it is responsible for implementing. When any of the same appear to the department to be ambiguous, unclear, unworkable, unnecessary, or otherwise deficient, it shall make recommendations to the legislature including appropriate proposals for statutory modifications or additions. Whenever it appears that the policies of any such statutes are in conflict with the policies of this chapter, and the department is unable to fully perform as provided in subsection (2) of this section, the department is directed to submit statutory modifications to the legislature which, if enacted, would allow the department to carry out such statutes in harmony with this chapter.

Sec. 6. Section 3, chapter 284, Laws of 1969 ex. sess. as amended by section 103, chapter 109, Laws of 1987 and by section 96, chapter 506, Laws of 1987 and RCW 90.22.010 are each reenacted and amended to read as follows:

The department of ecology may establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife resources, or recreational or aesthetic values of said public waters whenever it appears to be in the public interest to establish the same. In addition, the department of ecology shall, when requested by the department of fisheries or the department of wildlife to protect fish, game or other wildlife resources under the jurisdiction of the requesting state agency, or if the department of ecology finds it necessary to preserve water quality, establish such minimum flows or levels as are required to protect the resource or preserve the water quality described in the request or determination. Any request submitted by the department of fisheries or department of wildlife shall include a statement setting forth the need for establishing a minimum flow or level. When the department acts to preserve water quality, it shall include a similar statement with the proposed

rule filed with the code reviser. This section shall not apply to waters artificially stored in reservoirs, provided that in the granting of storage permits by the department of ecology in the future, full recognition shall be given to downstream minimum flows, if any there may be, which have theretofore been established hereunder.

The current guidelines, standards, or criteria governing the instream flow programs established pursuant to this chapter shall not be altered or amended after the effective date of this 1988 section, in accordance with section 2(5) of this 1988 act.

Sec. 7. Section 5, chapter 225, Laws of 1971 ex. sess. and RCW 90-.54.050 are each amended to read as follows:

In conjunction with the programs provided for in RCW 90.54.040(1), whenever it appears necessary to the director in carrying out the policy of this chapter, the department may by rule adopted pursuant to chapter 34.04 RCW:

(1) Reserve and set aside waters for beneficial utilization in the future, and

(2) When sufficient information and data are lacking to allow for the making of sound decisions, withdraw various waters of the state from additional appropriations until such data and information are available.

Prior to the adoption of a rule under this section, the department shall conduct a public hearing in each county in which waters relating to the rule are located. The public hearing shall be preceded by a notice placed in a newspaper of general circulation published within each of said counties. Rules adopted hereunder shall be subject to review in accordance with the provisions of RCW 34.04.070 or 34.04.080.

No new rules or changes to existing rules to reserve or set aside water may be adopted pursuant to this section, as provided in section 2(5) of this 1988 act.

NEW SECTION. Sec. 8. Nothing in this act shall apply to or interfere with the processing or issuance of water rights in connection with the Yakima River Basin Water Enhancement Project.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

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

Passed the Senate March 8, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 48

[Engrossed Substitute Senate Bill No. 6534]

CATHETERIZATION OF K-12 STUDENTS BY QUALIFIED SCHOOL PERSONNEL

AN ACT Relating to catheterization by school employees; amending RCW 18.71.030; adding a new section to chapter 18.88 RCW; and adding new sections to chapter 28A.31 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.88 RCW to read as follows:

(1) In accordance with rules adopted by the state board of nursing, public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students or assisted self-catheterization of students who are in the custody of the school district or private school at the time. The state board of nursing shall adopt rules in accordance with chapter 34.04 RCW, following consultation with staff of the superintendent of public instruction and the state board of practical nursing, which provide for the following and such other matters as the board deems necessary to the proper implementation of this section:

(a) A requirement for a written, current, and unexpired request from a parent, legal guardian, or other person having legal control over the student that the school district or private school provide for the catheterization of the student;

(b) A requirement for a written, current, and unexpired request from a physician licensed under chapter 18.57 or 18.71 RCW that catheterization of the student be provided for during the hours when school is in session or the hours when the student is under the supervision of school officials;

(c) A requirement for written, current, and unexpired instructions from a registered nurse licensed under chapter 18.88 RCW regarding catheterization which include (i) a designation of the school district or private school employee or employees who may provide for the catheterization, and (ii) a description of the nature and extent of any required supervision; and

(d) The nature and extent of acceptable training that shall (i) be provided by a physician or nurse licensed pursuant to chapter 18.57, 18.71, 18-.78, or 18.88 RCW, and (ii) be required of school district and private school employees who provide for the catheterization of a student pursuant to this

section, except that a practical nurse licensed pursuant to chapter 18.78 RCW shall be exempt from training.

(2) This section does not require school districts to provide intermittent bladder catheterization of students.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.31 RCW to read as follows:

(1) Public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students, or assisted self-catheterization of students pursuant to section 1 of this act: PROVIDED, That the catheterization is provided for in substantial compliance with:

(a) Rules adopted by the state board of nursing and the instructions of a registered nurse issued under such rules; and

(b) Written policies of the school district or private school which shall be adopted in order to implement this section and shall be developed in accordance with such requirements of chapters 41.56 and 41.59 RCW as may be applicable.

(2) This section does not require school districts to provide intermittent bladder catheterization of students.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.31 RCW to read as follows:

(1) In the event a school employee provides for the catheterization of a student pursuant to sections 1 and 2 of this act in substantial compliance with (a) rules adopted by the state board of nursing and the instructions of a registered nurse issued under such rules, and (b) written policies of the school district or private school, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing for the catheterization.

(2) Providing for the catheterization of any student pursuant to sections 1 and 2 of this act may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of the discontinuance: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student: PROVIDED FURTHER, That the public school district otherwise provides for the catheterization of the student to the extent required by federal or state law.

Sec. 4. Section 1, chapter 2, Laws of 1983 as amended by section 108, chapter 259, Laws of 1986 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~~)) naturopathy 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;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in sections 1 and 2 of this 1988 act.

Passed the Senate February 16, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 49

[Engrossed Senate Bill No. 5229]

STATE ADVISORY COMMITTEE TO THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVISIONS

AN ACT Relating to the state advisory committee to the department of social and health services; and amending RCW 43.20A.370 and 43.20A.375.

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

Sec. 1. Section 13, chapter 189, Laws of 1971 ex. sess. as amended by section 2, chapter 259, Laws of 1984 and RCW 43.20A.370 are each amended to read as follows:

There is hereby created a state advisory committee to the department of social and health services which shall serve in an advisory capacity to the secretary of the department of social and health services. The committee

shall be composed of not less than nine nor more than ((~~fifteen~~)) twenty members, to be appointed by the governor, who shall appoint a chairman, who shall serve as such at the governor's pleasure. In selecting members of the committee, the governor shall provide for a reasonable age, sex, ((~~and~~)) ethnic, and geographic balance from throughout the state. A broad range of interests, including business owners, professions, labor, local government, and consumers should be considered for membership. ((~~A representative from each of the regional advisory committees established under RCW 43.20A.360 shall serve as a member of the state advisory committee.~~)) The members of the committee shall serve ((~~four~~)) three years((~~, except the terms of the regional advisory committee representatives shall be for a duration specified by the secretary not to exceed four years to facilitate their participation~~)). Appointments to fill a vacant unexpired term shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive full terms. An unexpired term is considered a full term when one-half or more of the regular term is served. A member of the state advisory committee with two unexcused absences in a twelve-month period shall be deemed to have vacated the position held on the state advisory committee.

Sec. 2. Section 14, chapter 189, Laws of 1971 ex. sess. as amended by section 3, chapter 259, Laws of 1984 and RCW 43.20A.375 are each amended to read as follows:

The state advisory committee shall have the following powers and duties:

(1) To serve in an advisory capacity to the secretary on all matters pertaining to the department of social and health services.

(2) To acquaint themselves fully with the operations of the department and periodically recommend such changes to the secretary as they deem advisable.

(3) To ((~~biennially~~)) review and make recommendations as to the continued operation, possible consolidation, or elimination of department advisory committees ((~~other than those provided for~~)) including those required by federal law or specifically created by statute. The review shall include review of the statement of purpose for each advisory committee and the time frames during which the committee is accountable to achieve its stated purposes. The state advisory committee shall conduct the review ((~~using the criteria specified in RCW 43.131.070 and other appropriate criteria~~)) and report to the appropriate legislative committees no later than January 1, 1989.

(4) To encourage public awareness and understanding of the department of social and health services and the department's programs and services.

(((~~4~~))) (5) To develop agendas to foster periodic meetings with and communication between representatives of program-specific advisory committees ((~~other than those provided for by federal law~~)).

(6) To encourage each regional advisory committee established under RCW 43.20A.360 to send a representative to regular state advisory committee meetings to foster communication between the regional advisory committees and: (a) The state advisory committee, and (b) headquarters of the department.

Passed the Senate March 7, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 50

[Senate Bill No. 6578]

SALE OF NONLIQUOR FOOD ITEMS BY WINE OR BEER WHOLESALERS

AN ACT Relating to the sale of nonliquor food products as defined in RCW 82.08.0293 as it exists on July 1, 1987, by licensed wine wholesalers and beer wholesalers; adding a new section to chapter 66.28 RCW; repealing RCW 66.24.125; 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 66.28 RCW to read as follows:

RCW 66.28.010 notwithstanding, persons licensed under RCW 66.24-.200 as wine wholesalers and persons licensed under RCW 66.24.250 as beer wholesalers may sell at wholesale nonliquor food products on thirty-day credit terms to persons licensed as retailers under this title, but complete and separate accounting records shall be maintained on all sales of nonliquor food products to ensure that such persons are in compliance with RCW 66.28.010.

For the purpose of this section, "nonliquor food products" include all food products for human consumption as defined in RCW 82.08.0293 as it exists on July 1, 1987, except that for the purposes of this section bottled water and carbonated beverages, whether liquid or frozen, shall be considered food products.

NEW SECTION. Sec. 2. Section 2, chapter 386, Laws of 1987 and RCW 66.24.125 are each repealed.

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 15, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 51

[Substitute Senate Bill No. 6399]

SPECIAL FUEL USERS—REPORTING REQUIREMENTS FOR FUEL USED OFF-HIGHWAY

AN ACT Relating to special fuel record-keeping requirements; and amending RCW 82.38.140.

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

Sec. 1. Section 15, chapter 175, Laws of 1971 ex. sess. as amended by section 10, chapter 40, Laws of 1979 and RCW 82.38.140 are each amended to read as follows:

(1) Every special fuel dealer, special fuel supplier, special fuel user, and every person importing, manufacturing, refining, dealing in, transporting, or storing special fuel in this state shall keep for a period of not less than three years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all special fuel purchased or received and all of such products sold, delivered, or used by them. Such records shall show:

(a) The date of each receipt;

(b) The name and address of the person from whom purchased or received;

(c) The number of gallons received at each place of business or place of storage in the state of Washington;

(d) The date of each sale or delivery;

(e) The number of gallons sold, delivered, or used for taxable purposes;

(f) The number of gallons sold, delivered, or used for any purpose not subject to the tax imposed herein;

(g) The name, address, and special fuel license number of the purchaser if the special fuel tax is not collected on the sale or delivery;

(h) The inventories of special fuel on hand at each place of business at the end of each month.

(2) (a) All special fuel users using special fuel in vehicles licensed for highway operation shall maintain detailed mileage records on an individual vehicle basis.

(b) Such operating records shall show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(3) Persons using special fuel for heating purposes only are not required to maintain records of fuel usage.

(4) Invoices shall be prepared for sales and deliveries of special fuel in the manner and containing such information as may be prescribed by the department.

Every special fuel supplier, special fuel dealer or special fuel user making such sales or deliveries of special fuel and every person so receiving and purchasing special fuel must each retain one copy of each such invoice as part of his permanent records for the time and purposes above provided.

(5) Every special fuel user shall keep, in addition to his records of deliveries into motor vehicles, a complete record as prescribed by the department of the total gallons of special fuel used for other purposes during each month and the purposes for which said special fuel was used.

(6) Subsections (1)(f), (2)(b), and (5) of this section do not apply to special fuel users when the special fuel is used off-highway in farming, construction, or logging operations. Upon filing a special fuel user tax report, every such special fuel user shall certify and bear the burden of proof as to the number of gallons of special fuel used off-highway.

Passed the Senate February 12, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 52

[Senate Bill No. 6210]

STATE AUDITOR—DIVISION OF MUNICIPAL CORPORATIONS—DUTIES MAY BE CONTRACTED OUT

AN ACT Relating to the state auditor; and amending RCW 43.09.250.

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

Sec. 1. Section 43.09.250, chapter 8, Laws of 1965 and RCW 43.09-.250 are each amended to read as follows:

After the auditor has formulated and installed the system of uniform accounting in any or all classes of public offices, he may appoint additional assistants as required, who shall be known as state examiners. In addition, the state auditor may contract with certified public accountants certified in Washington to carry out such portions of the duties of the division of municipal corporations as the state auditor may determine.

Passed the Senate February 8, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 53

[Senate Bill No. 6211]

STATE AUDITOR—DIVISION OF DEPARTMENTAL AUDITS—DUTIES MAY BE CONTRACTED OUT

AN ACT Relating to the state auditor; and amending RCW 43.09.300.

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

Sec. 1. Section 43.09.300, chapter 8, Laws of 1965 and RCW 43.09-.300 are each amended to read as follows:

There shall be in the office of the state auditor a division to be known as the division of departmental audits. The state auditor may appoint and deputize an assistant to be known as chief examiner, who shall have charge and supervision of the division and who may, with the approval of the state auditor, appoint and employ such state examiners and clerical assistants as may be necessary to carry out the duties of the division. In addition, the state auditor may contract with certified public accountants certified in Washington to carry out such portions of the duties of the division of departmental audits as the state auditor may determine.

Passed the Senate February 8, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 54

[Engrossed House Bill No. 1304]

MARKETING AGREEMENTS OR ORDERS—PESTICIDES OR AGRICULTURAL CHEMICALS

AN ACT Relating to marketing agreements; adding a new section to chapter 15.65 RCW; and adding a new section to chapter 15.66 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 15.65 RCW to read as follows:

Any marketing agreement or order may authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity. Any marketing agreement or order may authorize the expenditure of commodity board funds for this purpose.

NEW SECTION. Sec. 2. A new section is added to chapter 15.66 RCW to read as follows:

Any marketing agreement or order may authorize the members of a commodity commission, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity. Any marketing agreement or order may authorize the expenditure of commodity commission funds for this purpose.

Passed the House January 29, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 55

[House Bill No. 1471]

MOTOR VEHICLES—ADDITIONAL TONNAGE

AN ACT Relating to purchase of additional tonnage for motor vehicles; and amending RCW 46.44.095 and 46.44.160.

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

Sec. 1. Section 46.44.095, chapter 12, Laws of 1961 as last amended by section 2, chapter 68, Laws of 1983 and RCW 46.44.095 are each amended to read as follows:

When a combination of vehicles has been lawfully licensed to a total gross weight of eighty thousand pounds and when a three or more axle single unit vehicle has been lawfully licensed to a total gross weight of forty thousand pounds pursuant to provisions of RCW 46.44.041, a permit for additional gross weight may be issued by the department of transportation upon the payment of thirty-seven dollars and fifty cents per year for each one thousand pounds or fraction thereof of such additional gross weight: PROVIDED, That the tire limits specified in RCW 46.44.042 shall apply, and the gross weight on any single axle shall not exceed twenty thousand pounds, and the gross load on any group of axles shall not exceed the limits set forth in RCW 46.44.041: PROVIDED FURTHER, That within the tire limits of RCW 46.44.042, and notwithstanding RCW 46.44.041 and 46.44-.091, a permit for an additional six thousand pounds may be purchased for the rear axles of a two-axle garbage truck or eight thousand pounds for the tandem axle of a three axle garbage truck at a rate not to exceed thirty dollars per thousand. Such additional weight in the case of garbage trucks shall not be valid or permitted on any part of the federal interstate highway system.

The annual additional tonnage permits provided for in this section shall be issued upon such terms and conditions as may be prescribed by the department pursuant to general rules adopted by the transportation commission. Such permits shall entitle the permittee to carry such additional load in an amount and upon highways or sections of highways as may be determined by the department of transportation to be capable of withstanding increased gross load without undue injury to the highway: PROVIDED, That the permits shall not be valid on any highway where the use of such permits would deprive this state of federal funds for highway purposes.

For those vehicles registered under chapter 46.87 RCW, the annual additional tonnage permits provided for in this section ((~~shall commence on the first of January of each year~~)) may be issued to coincide with the registration year of the base jurisdiction. For those vehicles registered under chapter 46.16 RCW and whose registration has staggered renewal dates, the annual additional tonnage permits may be issued to coincide with the expiration date of the registration. The permits may be purchased at any time, and if they are purchased for less than a full year, the fee shall be one-twelfth of the full fee multiplied by the number of months, including any fraction thereof, covered by the permit. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit from one vehicle to another a fee of five dollars shall be charged for each duplicate issued or each transfer. The department of transportation shall issue permits on a temporary basis for periods not less than five days at one dollar per day for each two thousands pounds or fraction thereof.

The fees levied in RCW 46.44.0941 and this section shall not apply to any vehicles owned and operated by the state of Washington, any county within the state, or any city or town or metropolitan municipal corporation within the state, or by the federal government.

In the case of fleets prorating license fees under the provisions of chapter ((~~46.85~~)) 46.87 RCW, the fees provided for in this section shall be computed by the department of transportation by applying the proportion of the Washington mileage of the fleet in question to the total mileage of the fleet as reported pursuant to chapter ((~~46.85~~)) 46.87 RCW to the fees that would be required to purchase the additional weight allowance for all eligible vehicles or combinations of vehicles for which the extra weight allowance is requested.

((~~The department of transportation shall prorate the fees provided in this section only if the name of the operator or owner is submitted on official listings of authorized fleet operators furnished by the department of licensing. Listings furnished shall also include the percentage of mileage operated in Washington which is the same percentage as determined by the department of licensing, for purposes of prorating license fees.~~))

Sec. 2. Section 1, chapter 196, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 229, Laws of 1981 and RCW 46.44.160 are each amended to read as follows:

When vehicles for which licensed tonnage has been purchased on a monthly or quarterly basis pursuant to chapter 46.16 or 46.87 RCW ((~~46.16.135 or 46.85.120 as now or hereafter amended~~)), then the additional tonnage provided for in RCW 46.44.095 may be purchased on a monthly or a quarterly basis: PROVIDED, That the total additional tonnage purchased under RCW 46.44.095 is not less than six thousand pounds: PROVIDED FURTHER, That those vehicles registered under chapter 46.87 RCW must have a prorate percent of sixty percent or more. The fee for a monthly permit shall be one-twelfth the amount charged for a corresponding twelve-month period, and the fee for a quarterly permit shall be one-fourth the amount charged for a corresponding twelve-month permit, and shall further be reduced by one-twelfth for each full calendar month of the quarter that has elapsed at the time the quarterly permit is purchased. In addition, a fee of five dollars shall be charged for each monthly or quarterly permit issued hereunder.

The quarterly periods covered by this section shall be registration quarters consisting of three registration months. The first quarter shall commence with registration month one.

Passed the House February 3, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 56

[Substitute House Bill No. 1672]

GROSS WEIGHT IDENTIFICATION OF TRUCKS

AN ACT Relating to identification of trucks; amending RCW 46.16.170; and adding a new section to chapter 46.37 RCW.

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

***NEW SECTION.** Sec. 1. A new section is added to chapter 46.37 RCW to read as follows:*

All motor carriers shall display an identifying name or number on both sides of their trucks that are licensed under chapter 46.16 RCW and singly or in combination are more than twenty-six thousand pounds gross vehicle weight. The identification shall be in a clearly legible style with letters no less than four inches high and in a color contrasting with the surrounding body panel. On tractors, logging trucks, stake bodies, flat beds, and dump trucks the identification may be placed only on the cab. It shall be visible from a position four feet above the roadway in a lane adjacent to the truck.

If the truck is operated under a permit from the commission, the identification shall contain the name of the permittee, or business name, and the permit number. If the truck is a private carrier, the identification shall contain the name and address of either the business operating the truck or the registered owner.

Common carriers who hold both intrastate and interstate authority between points within the state and also have interstate authority between points in the state and points outside the state may display either their ICC permit number or their commission permit number.

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

Sec. 2. Section 46.16.170, chapter 12, Laws of 1961 as amended by section 14, chapter 18, Laws of 1986 and RCW 46.16.170 are each amended to read as follows:

Every motor truck, truck tractor, and tractor with a licensed gross weight in excess of ten thousand pounds, 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. It is unlawful for the owner or operator of any vehicle to display a maximum gross weight or combined gross weight other than that shown on the current certificate of license registration of the vehicle.

Passed the House February 13, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 15, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 15, 1988.

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

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 1672, entitled:

"AN ACT Relating to identification of trucks."

Section 1, if signed, would place an additional burden on owners of trucks. All trucks and truck-trailer combinations weighing over 26,000 lbs. would be required to display identification in four-inch high letters. This includes recreational and farm trucks. Currently, non-farm commercial trucks display identification in two- to three-inch high letters. These trucks would be required to remove or paint over existing identification to display the larger letters. This is an unnecessary regulatory burden on owners of recreational, farm and commercial vehicles. The larger numbers are not needed for law enforcement officers to do their jobs.

With the exception of section 1, Substitute House Bill No. 1672 is approved."

CHAPTER 57

[House Bill No. 1813]

WSU RAINIER SCHOOL FARM FACILITY—REVISING CUSTODY OF REVOLVING FUND

AN ACT Relating to the Washington State University agricultural research facility at the Rainier school farm; and amending RCW 28B.30.810.

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

Sec. 1. Section 4, chapter 238, Laws of 1981 and RCW 28B.30.810 are each amended to read as follows:

(1) Washington State University shall establish and operate a dairy/forage and agricultural research facility at the Rainier school farm.

(2) Local funds generated through operation of this facility shall be managed in a revolving fund, established herewith, by the university. This fund shall consist of all moneys received in connection with the operation of the facility and any moneys appropriated to the fund by law. ((~~The state treasurer shall be custodian of the fund.~~)) Disbursements from the revolving fund shall be on authorization of the president of the university or the president's designee. In order to maintain an effective expenditure and revenue control, this fund, to be known as the dairy/forage facility revolving fund, shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(3) In the event state funding is not sufficient to operate the dairy cattle herd, the university is authorized to lease the herd, together with the land necessary to maintain the same, for such period and upon such terms as the university board of regents shall deem proper.

Passed the House February 9, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 58

[House Bill No. 1418]

MOTOR FREIGHT CARRIER APPLICATION HEARINGS—LOCATION

AN ACT Relating to the location of hearings on motor freight carrier applications; and amending RCW 81.80.345.

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

Sec. 1. Section 3, chapter 242, Laws of 1963 and RCW 81.80.345 are each amended to read as follows:

Hearings on applications shall be heard in the county or adjoining county ((~~of the residence of the applicant~~)) for which authority to operate is being applied. If more than one county is involved, the commission may hold the hearings at a location that will afford the greatest opportunity for testimony by witnesses representing the area for which authority to operate is being applied.

Passed the House February 15, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 59

[House Bill No. 1560]

RETIREMENT SYSTEM MEMBERS OVER THE AGE OF SEVENTY AND ONE-HALF AND STILL EMPLOYED—FEDERAL TAX REFORM RELIEF

AN ACT Relating to retirement benefits for persons who have attained age seventy and one-half and are still employed; adding a new section to chapter 41.04 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 sole purpose of section 2 of this act is to provide members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, and 43.43 RCW with temporary relief from the provisions of the 1986 federal tax reform act which impose a substantial penalty on persons who do not begin receiving their retirement benefits following the year in which they reach age seventy and one-half.

No member shall have any contractual rights to the benefits provided by section 2 of this act, and the legislature at its discretion may modify or eliminate such benefits in the future. Should the congress repeal the penalty provision, retirement payments under section 2 of this act will cease and any such payments made will be actuarially considered in determining the retirement benefit when the member separates and requests retirement.

NEW SECTION. Sec. 2. A new section is added to chapter 41.04 RCW to read as follows:

(1) For the purposes of this section, "system" means any of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, and 43.43 RCW. The provisions of this section shall be given effect notwithstanding any provisions to the contrary contained in any such system.

(2) Upon attainment of age seventy and one-half, an employed member of a system may, subject to the provisions of this section, apply for the retirement benefit the member is eligible to receive. The benefit shall be calculated in accordance with the rules of the system to which the member belongs, except that the member may continue to be employed. While employed, the member shall continue to make contributions to the system and

receive service credit according to the rules of the system as though the member were not retired and receiving benefits.

(3) When a member who retires pursuant to this section separates from service or dies while still employed, the department shall recalculate the retirement benefit for the sole purpose of taking into consideration the additional service credit and compensation history. No change in the survivor option and related beneficiary designation originally selected by the member shall be allowed except as otherwise authorized by the member's system.

(4) This section applies only to persons who attain age seventy and one-half years on or after January 1, 1988.

NEW SECTION. Sec. 3. This act shall take effect January 1, 1989.

Passed the House February 15, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 60

[Engrossed Senate Bill No. 6093]

PRESENTENCE REPORTS OF SEXUAL OFFENDERS

AN ACT Relating to presentence reports; amending RCW 9.94A.110; and declaring an emergency.

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

Sec. 1. Section 11, chapter 137, Laws of 1981 as last amended by section 34, chapter 257, Laws of 1986 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 order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. 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. 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 9, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 61

[Engrossed Substitute House Bill No. 1388]

EMERGENCY LODGING FOR HOMELESS PERSONS—TAX REVISIONS

AN ACT Relating to excise taxation on lodging; adding a new section to chapter 82.08 RCW; adding a new section to chapter 67.28 RCW; adding a new section to chapter 67.40 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 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to emergency lodging provided for homeless persons for a period of less than thirty consecutive days under a shelter voucher program administered by an eligible organization.

(2) For the purposes of this exemption, an eligible organization includes only cities, towns, and counties, or their respective agencies, and groups providing emergency food and shelter services.

NEW SECTION. Sec. 2. A new section is added to chapter 67.28 RCW to read as follows:

(1) The tax levied by RCW 67.28.180 and 67.28.182 shall not apply to emergency lodging provided for homeless persons for a period of thirty consecutive days under a shelter voucher program administered by an eligible organization.

(2) For the purposes of this exemption, an eligible organization includes only cities, towns, and counties, or their respective agencies, and groups providing emergency food and shelter services.

NEW SECTION. Sec. 3. A new section is added to chapter 67.40 RCW to read as follows:

(1) The tax levied by RCW 67.40.090 and the tax authorized under RCW 67.40.100(2) shall not apply to emergency lodging provided for homeless persons for a period of less than thirty consecutive days under a shelter voucher program administered by an eligible organization.

(2) For the purposes of this exemption, an eligible organization includes only cities, towns, and counties, or their respective agencies, and groups providing emergency food and shelter services.

NEW SECTION. Sec. 4. This act shall take effect July 1, 1988.

Passed the House February 12, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 62

[Substitute House Bill No. 1339]

UNLAWFUL USE OF FOOD STAMPS—CLASS C FELONY

AN ACT Relating to the illegal transfer of food stamps; reenacting and amending RCW 9.94A.320; adding a new section to chapter 9.91 RCW; repealing RCW 9.91.120; 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 9.91 RCW to read as follows:

(1) A person who sells food coupons obtained through the program established under RCW 74.04.500, or food purchased therewith, is guilty of a gross misdemeanor under RCW 9A.20.021 if the value of the coupons or food transferred exceeds one hundred dollars, and is guilty of a misdemeanor under RCW 9A.20.021 if the value of the coupons or food transferred is one hundred dollars or less.

(2) A person who purchases, or who otherwise acquires and sells, or who traffics in, food coupons issued to another person through the program established under RCW 74.04.500, is guilty of a class C felony under RCW 9A.20.021 if the face value of the coupons exceeds one hundred dollars, and is guilty of a gross misdemeanor under RCW 9A.20.021 if the face value of the coupons is one hundred dollars or less.

(3) A person who, in violation of 7 U.S.C. Sec. 2024(c), obtains and presents food coupons for redemption or causes such coupons to be presented for redemption through the program established under RCW 74.04.500 is guilty of a class C felony under RCW 9A.20.021.

Sec. 2. Section 3, chapter 115, Laws of 1983 as last amended by section 4, chapter 187, Laws of 1987 and by section 1, chapter 224, Laws of

1987 and RCW 9.94A.320 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW 9A.36.011)
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Statutory Rape 1 (RCW 9A.44.070) Explosive devices prohibited (RCW 70.74.180) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I–V to someone under 18 and 3 years junior (RCW 69.50.406) Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a)) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
VIII	Arson 1 (RCW 9A.48.020) Rape 2 (RCW 9A.44.050) 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)) 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), (c), and (d))
Incest 1 (RCW 9A.64.020(1))
Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))
Intimidating a Judge (RCW 9A.72.160)

V
Criminal Mistreatment 1 (RCW 9A.42.020)
Rape 3 (RCW 9A.44.060)
Kidnapping 2 (RCW 9A.40.030)
Extortion 1 (RCW 9A.56.120)
Incest 2 (RCW 9A.64.020(2))
Perjury 1 (RCW 9A.72.020)
Extortionate Extension of Credit (RCW 9A.82.020)
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Rendering Criminal Assistance 1 (RCW 9A.76.070)

IV
Robbery 2 (RCW 9A.56.210)
Assault 2 (RCW 9A.36.021)
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 Criminal Mistreatment 2 (RCW 9A.42.030)
Statutory Rape 3 (RCW 9A.44.090)
Extortion 2 (RCW 9A.56.130)
Unlawful Imprisonment (RCW 9A.40.040)
Assault 3 (RCW 9A.36.031)
Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
Harassment (RCW 9A.46.020)
Promoting Prostitution 2 (RCW 9A.88.080)
Wilful Failure to Return from Work Release (RCW 72.65.070)
Introducing Contraband 2 (RCW 9A.76.150)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Escape 2 (RCW 9A.76.120)
Perjury 2 (RCW 9A.72.030)
Intimidating a Public Servant (RCW 9A.76.180)
Tampering with a Witness (RCW 9A.72.120)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
Theft of livestock 1 (RCW 9A.56.080)

II Malicious Mischief 1 (RCW 9A.48.070)
Possession of Stolen Property 1 (RCW 9A.56.150)
Theft 1 (RCW 9A.56.030)
Theft of Livestock 2 (RCW 9A.56.080)
Burglary 2 (RCW 9A.52.030)
Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
Computer Trespass 1 (RCW 9A.52.110)

I Theft 2 (RCW 9A.56.040)
Possession of Stolen Property 2 (RCW 9A.56.160)
Forgery (RCW 9A.60.020)
Taking Motor Vehicle Without Permission (RCW 9A.56.070)
Vehicle Prowl 1 (RCW 9A.52.095)
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

Malicious Mischief 2 (RCW 9A.48.080)
Reckless Burning 1 (RCW 9A.48.040)
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Unlawful Use of Food Stamps (section 1 (2) and (3) of this 1988 act)
False Verification for Welfare (RCW 74.08.055)
Forged Prescription (RCW 69.41.020)
Forged Prescription for a Controlled Substance (RCW 69.50.403)
Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))

NEW SECTION. Sec. 3. Section 1, chapter 6, Laws of 1973 2nd ex. sess. and RCW 9.91.120 are each repealed.

Passed the House February 10, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 63

[Substitute House Bill No. 1362]

BUTTER SPECIALITY PRODUCTS—SALE OF NONSTANDARD WEIGHTS

AN ACT Relating to weights and measures; and amending RCW 19.94.410.

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

Sec. 1. Section 41, chapter 67, Laws of 1969 and RCW 19.94.410 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, butter, oleomargarine and margarine shall be offered and exposed for sale and sold by weight and only in units of one-quarter pound, one-half pound, one pound or multiples of one pound, avoirdupois weight.

(2) The director of agriculture may allow the sale of butter speciality products in nonstandard units of weight if the purpose achieved by using such nonstandard units is decorative in nature and the products are clearly labeled as to weight and price per pound.

Passed the House February 9, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 64

[House Bill No. 1371]

ESTATE AND TRANSFER TAX ACT OF 1988

AN ACT Relating to estates and estate tax; amending RCW 83.100.010, 83.100.020, 83.100.030, 83.100.040, 83.100.050, 83.100.060, 83.100.070, 83.100.080, 83.100.090, 83.100.110, 83.100.130, 83.100.140, 83.100.150, 82.32.240, 11.40.080, 11.08.160, 11.62.005, 11.62.010, 83.110.903, 11.108.010, and 11.108.020; adding a new section to chapter 11.108 RCW; adding new sections to chapter 83.100 RCW; creating new sections; repealing RCW 83.100.100; and declaring an emergency.

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

PART I

Sec. 1. Section 83.100.010, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.010 are each amended to read as follows:

SHORT TITLE. This chapter may be cited as the "Estate and Transfer Tax ((~~Reform~~)) Act of ((~~1981~~)) 1988."

Sec. 2. Section 83.100.020, chapter 7, Laws of 1981 2nd ex. sess and RCW 83.100.020 are each amended to read as follows:

DEFINITIONS. As used in this chapter:

(1) "Decedent" means a deceased individual;

(2) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(3) "Federal credit" means ((~~the maximum amount of the credit for estate death taxes allowed by section 2011 for the decedent's net estate~~)) (a) for a transfer, the maximum amount of the credit for state taxes allowed by section 2011 of the United States Internal Revenue Code of 1986, as amended or renumbered; and (b) for a generation-skipping transfer, the maximum amount of the credit for state taxes allowed by section 2604 of the United States Internal Revenue Code of 1986, as amended or renumbered;

(4) "Federal return" means any tax return required by chapter 11 or 13 of the United States Internal Revenue Code of 1986, as amended or renumbered, and any regulations thereunder;

(5) "Federal tax" means (a) for a transfer, a tax under chapter 11 of the United States Internal Revenue Code of 1986, as amended or renumbered; and (b) for a generation-skipping transfer, the tax under chapter 13 of the United States Internal Revenue Code of 1986, as amended or renumbered;

(6) "Generation-skipping transfer" means a "generation-skipping transfer" as defined and used in section 2611 of the United States Internal Revenue Code of 1986, as amended or renumbered;

((~~(4)~~)) (7) "Gross estate" means "gross estate" as defined and used in section 2031 of the United States Internal Revenue Code of ((~~1954~~)) 1986, as amended or renumbered;

((~~(5) "Net estate" means "taxable estate" as defined in section 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered;~~

((~~(6)~~)) (8) "Nonresident" means a decedent who was domiciled outside Washington at his death;

((~~(7)~~)) (9) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

((~~(8) "Personal representative" means the executor or administrator of a decedent or, if no executor or administrator is appointed, qualified, and acting, any person who has possession of any property;~~

~~(9)~~)) (10) "Person required to file the federal return" means any person required to file a return required by chapter 11 or 13 of the Internal Revenue Code of 1986, as amended or renumbered, such as the personal representative of an estate; or a transferor, trustee, or beneficiary of a generation-skipping transfer; or a qualified heir with respect to qualified real property, as defined and used in section 2032A(c) of the United States Internal Revenue Code of 1986, as amended or renumbered;

(11) "Property" means (a) for a transfer, property included in the gross estate; and (b) for a generation-skipping transfer, all real and personal property subject to the federal tax;

((~~(10) "Release" means a release of no tax due or a receipt for payment of the tax due under this chapter;~~

~~(11)~~)) (12) "Resident" means a decedent who was domiciled in Washington at time of death;

((~~(12) "Section 2011" means section 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered; and~~))

(13) "Transfer" means "transfer" as ((~~defined and~~)) used in section 2001 of the United States Internal Revenue Code of ((~~1954~~)) 1986, as amended or renumbered, or a disposition or cessation of qualified use as defined and used in section 2032A(c) of the United States Internal Revenue Code of 1986, as amended or renumbered; and

(14) "Trust" means "trust" under Washington law and any arrangement described in section 2652 of the Internal Revenue Code of 1986, as amended or renumbered.

Sec. 3. Section 83.100.030, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.030 are each amended to read as follows:

RESIDENTS——ESTATE TAX IMPOSED——CREDIT FOR TAX PAID OTHER STATE. (1) A tax in an amount equal to the federal

credit is imposed on ((~~the~~)) every transfer of ((~~the net estate of every~~)) property of a resident.

(2) If ((~~any property of a resident~~)) the transfer is subject to a ((~~death~~)) similar tax imposed by another state for which ((~~a~~)) the federal credit is allowed ((~~by section 2011~~)), and if the tax imposed by the other state is not qualified by a reciprocal provision allowing the ((~~property~~)) transfer to be taxed ((~~in the~~)) only in this state ((~~of decedent's domicile~~)), the amount of the tax due under this section shall be credited with the lesser of:

(a) The amount of the death tax paid the other state and credited against the federal ((~~estate~~)) tax; or

(b) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the ((~~death~~)) tax imposed by the other state, and the denominator of which is the value of the decedent's gross estate.

Sec. 4. Section 83.100.040, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.040 are each amended to read as follows:

NONRESIDENTS——ESTATE TAX IMPOSED——EXEMPTION. (1) A tax in an amount computed as provided in this section is imposed on ((~~the~~)) every transfer of ((~~the net estate~~)) property located in Washington of every nonresident.

(2) The tax shall be computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Washington, and the denominator of which is the value of the decedent's gross estate.

(3) The transfer of the property of a nonresident is exempt from the tax imposed by this section to the extent that the property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled.

NEW SECTION. Sec. 5. GENERATION-SKIPPING TRANSFERS——TAX IMPOSED——CREDIT FOR TAX PAID TO ANOTHER STATE. (1) A tax in an amount equal to the federal credit is imposed on every generation-skipping transfer, if real or tangible personal property subject to the federal tax is located in this state or if the trust has its principal place of administration in this state at the time of the generation-skipping transfer.

(2) If the generation-skipping transfer is subject to a similar tax imposed by another state for which the federal credit is allowed, the amount of the tax due under this section shall be credited with the lesser of:

(a) The amount of the tax paid to the other state and credited against the federal tax; or

(b) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the

generation-skipping transfer tax imposed by the other state, and the denominator of which is the value of all property subject to the federal tax.

Sec. 6. Section 83.100.050, chapter 7, Laws of 1981 2nd ex. sess. as amended by section 1, chapter 44, Laws of 1986 and RCW 83.100.050 are each amended to read as follows:

TAX RETURN——DATE TO BE FILED——EXTENSIONS. (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~~)) person required to file the federal 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~~)) Washington return for the tax((~~es~~)) due under this chapter; and

(b) A ((~~true~~)) copy of the federal ((~~estate tax~~)) return.

No Washington return need be filed if no federal return is required. A Washington return delivered to the department by United States mail shall be considered to have been received by the department on the date of the United States postmark stamped on the cover in which the return is mailed, if the postmark date is within the time allowed for filing the Washington return, including extensions.

(2) If the ((~~personal representative~~)) person required to file the federal return 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~~)) person shall file the Washington return within the same time period and in the same manner as provided for the federal return. A ((~~true~~)) copy of the federal extension shall be filed with the department on or before the date the Washington return is due, not including any extension of time for filing, or within thirty days of issuance, whichever is later.

((~~(3) No Washington report need be filed if the estate is not subject to the tax imposed by this chapter.~~))

Sec. 7. Section 83.100.060, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.060 are each amended to read as follows:

DATE PAYMENT DUE——EXTENSIONS. (1) The taxes imposed by this chapter shall be paid by the ((~~personal representative to the department~~)) person required to file the federal return on or before the date the Washington return ((~~for the taxes~~)) is required to be filed under RCW 83-.100.050, not including any extension of time for filing. Payment delivered to the department by United States mail shall be considered to have been received by the department on the date of the United States postmark stamped on the cover in which payment is mailed, if the postmark date is within the time allowed for making the payment, including any extensions.

(2) ((~~For the purposes of this chapter, a return or payment delivered to the department by United States mail shall be considered to have been received by the department on the date of the United States postmark stamped on the cover in which the payment or the request for release of nonliability is mailed, if the postmark date is within the time allowed for filing the return or making the payment, including any extensions.~~)) If the person required to file the federal return has obtained an extension of time for payment of the federal tax or has elected to pay such tax in installments, the person may elect to pay the tax imposed by this chapter within the same time period and in the same manner as provided for payment of the federal tax. A copy of the federal extension shall be filed on or before the date the tax imposed by this chapter is due, not including any extension of time for payment, or within thirty days of issuance, whichever is later.

Sec. 8. Section 83.100.070, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.070 are each amended to read as follows:

INTEREST ON AMOUNT DUE——PENALTY FOR LATE FILING. (1) Any tax due under this chapter which is not paid by the ((~~time prescribed for the filing of the report as provided in RCW 83.100.050, not including any extensions in respect to the filing of the report or the payment of the tax;~~)) due date under RCW 83.100.060(1) shall bear interest at the rate of twelve percent per annum from the date ((~~any~~)) the tax is due until paid.

(2) If the ((~~report provided for in RCW 83.100.050~~)) Washington return is not filed ((~~within the time periods specified~~)) when due under RCW 83.100.050, then the ((~~personal representative~~)) person required to file the federal return shall pay, in addition to ((~~the~~)) interest ((~~provided in this section~~)), a penalty equal to five percent of the tax due ((~~in respect to the transfer~~)) for each month ((~~beyond the time periods that the report has not been filed, but~~)) after the date the return is due until filed. No penalty ((~~so imposed~~)) may exceed ((~~a total of~~)) twenty-five percent of the tax.

((~~(3) If the personal representative has obtained an extension of time for payment of the federal tax, the personal representative may elect to extend the time for payment of the tax due under this chapter in accordance with the extension. The election shall be made by filing a true copy of the extension of time for payment with the report and the returns required under RCW 83.100.050.~~))

Sec. 9. Section 83.100.080, chapter 7, Laws of 1981 2nd ex. sess. as amended by section 2, chapter 44, Laws of 1986 and RCW 83.100.080 are each amended to read as follows:

DEPARTMENT TO ISSUE RELEASE. ((~~(1)~~)) The department shall issue ((~~an automatic~~)) a release ((~~to the personal representative~~)) when the ((~~taxes~~)) tax due under this chapter ((~~have~~)) has 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~~)). Upon issuance of a release, all property subject to the tax shall be free of any claim for the tax by the state.

Sec. 10. Section 83.100.090, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.090 are each amended to read as follows:

AMENDED RETURNS——ADJUSTMENTS. (1) If the ((~~personal representative~~)) person required to file the federal return files an amended federal return, ((~~the personal representative~~)) that person shall immediately file with the department an amended Washington ((~~report~~)) return with a ((~~true~~)) copy of the amended federal return. If the ((~~personal representative is required to pay an additional tax under this chapter pursuant to the amended return, the personal representative shall pay the additional tax, together with interest as provided in RCW 83.100.070, at the same time the personal representative files the amended return, subject, however, to any extension election under RCW 83.100.070~~)) amended Washington return requires payment of an additional tax under this chapter, the tax shall be paid in accordance with RCW 83.100.060 and interest shall be paid in accordance with RCW 83.100.070.

(2) Upon ((~~final determination of the federal tax due with respect to any transfer, the personal representative~~)) any adjustment in, or final determination of, the amount of federal tax due, the person required to file the federal return shall((~~, within sixty days after the determination, give written notice of it to the department in such form as may be prescribed by rule. If any additional tax is due under this chapter by reason of the determination, the personal representative shall pay the same, together with interest as provided in RCW 83.100.070, at the same time he files the notice, subject, however, to any extension election under RCW 83.100.070~~)) notify the department in writing within sixty days after the adjustment or final determination. If the adjustment or final determination requires payment of an additional tax under this chapter, the tax shall be paid in accordance with RCW 83.100.060 and interest shall be paid in accordance with RCW 83.100.070.

Sec. 11. Section 83.100.110, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.110 are each amended to read as follows:

TAX LIEN. (1) ((~~A personal representative may sell so much of any property as is necessary to pay the taxes due under this chapter. A personal representative may sell so much of any property specifically bequeathed or devised as is necessary to pay the proportionate amount of the taxes due on the transfer of the property and the fees and expenses of the sale, unless the legatee or devisee pays the personal representative the proportionate amount of the taxes due.~~

~~(2)~~)) Unless any tax due under this chapter is sooner paid in full, it shall be a lien upon the ((~~gross estate of the decedent~~)) property subject to the tax for a period of ten years from the date of ((~~death~~)) the transfer or the generation-skipping transfer, except that ((~~such~~)) any part of the ((~~gross estate as~~)) property which is used for the payment of ((~~charges~~)) claims against the ((~~estate and~~)) property or expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of the lien. Liens created under this subsection shall be qualified as follows:

(a) ((~~The limitation period, as described in this subsection, shall in each case be extended for a period of time equal to the period of pendency of litigation of questions affecting the determination of the amount of tax due, provided a lis pendens has been filed with the auditor of the county in which the property is located;~~

~~(b)~~)) Any part of the ((~~gross estate~~)) property subject to the tax which is ((~~transferred~~)) sold to a bona fide purchaser shall be divested of the lien and the lien shall be transferred to the proceeds ((~~arising out of the transfer~~)) of the sale; and

(((~~c) A~~)) (b) The lien shall be subordinate to any mortgage or deed of trust on the property pursuant to an order of court for payment of ((~~charges~~)) claims against the ((~~estate and~~)) property or expenses of administration ((~~shall constitute a lien upon the property prior and superior to the tax lien, which tax lien shall attach to the proceeds~~)). The lien shall attach to any proceeds from the sale of the property in excess of the obligations secured by the mortgage or deed of trust and the expenses of sale, including a reasonable charge by the trustee and by his or her attorney where the property has been sold by a nonjudicial trustee's sale pursuant to chapter 61.24 RCW, and including court costs and any attorneys' fees awarded by the superior court of the county in which the property is sold at sheriff's sale pursuant to a judicial foreclosure of the mortgage or deed of trust.

(2) If the person required to file the federal return has obtained an extension of time for payment of the federal tax or has elected to pay such tax in installments, the tax lien under this section shall be extended as necessary to prevent its expiration prior to twelve months following the expiration of any such extension or the installment.

(3) The tax lien shall be extended as necessary to prevent its expiration prior to twelve months following the conclusion of litigation of any question affecting the determination of the amount of tax due if a lis pendens has been filed with the auditor of the county in which the property is located.

Sec. 12. Section 83.100.130, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.130 are each amended to read as follows:

REFUND FOR OVERPAYMENT. Whenever ((~~it is determined~~)) the department determines that a ((~~personal representative~~)) person required to file the federal return has overpaid the tax due under this chapter,

the department ((~~may~~)) shall refund the amount of the overpayment, together with interest at the then existing ((~~statutory~~)) rate ((~~of interest~~)) under RCW 83.100.070(1). ((~~No claim for refund may be initiated more than one year after the date the federal tax has been first paid.~~)) If the application for refund, with supporting documents, is filed within four months after an adjustment or final determination of federal tax liability, the department shall pay interest until the date the refund is mailed. If the application for refund, with supporting documents, is filed after four months after the adjustment or final determination, the department shall pay interest only until the end of the four-month period.

Sec. 13. Section 83.100.140, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.140 are each amended to read as follows:

CRIMINAL ACTS RELATING TO TAX RETURNS. Any person required to file the federal return who wilfully fails to file a Washington ((~~estate tax~~)) return when required by this chapter or who wilfully files a false return commits a gross misdemeanor as defined in ((~~chapter [Title]~~)) Title 9A RCW and shall be punished as provided in Title 9A RCW for the perpetration of a gross misdemeanor.

Sec. 14. Section 83.100.150, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.150 are each amended to read as follows:

COLLECTION OF TAX——FINDINGS FILED IN COURT. (1) The department may collect the estate tax ((~~provided for in this chapter~~)) imposed under RCW 83.100.030 and 83.100.040, including ((~~applicable~~)) interest and penalties, and shall represent this state in all matters pertaining to the same, either before courts or in any other manner. ((~~The department, through the attorney general, may institute proceedings for the collection of this tax and any interest and penalties on the tax. The superior court for any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the laws of Washington shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this chapter. If no probate or administration proceedings have been taken out in any court of this state, the superior court for the county in which the decedent was a resident, if the decedent was a domiciliary, or, if the decedent was a nondomiciliary, any court which has sufficient jurisdiction over the property of the decedent, the transfer of which is taxable, to issue probate or administration proceedings thereon, had the same been justified by the legal status of the property or had the same been applied for, shall have jurisdiction. Any such court first acquiring jurisdiction shall retain the same to the exclusion of every other~~)) At any time after the Washington return is due, the department may file its findings regarding the amount of the tax, the federal credit, the person required to file the federal return, and all persons having an interest in property subject to the tax with the clerk of the superior court in the

matter of the estate of the decedent or, if no probate or administration proceedings have been commenced in any court of this state, of the superior court for the county in which the decedent was a resident, if the resident was a domiciliary, or, if the decedent was a nondomiciliary, of any superior court which has jurisdiction over the property. Such a court first acquiring jurisdiction shall retain jurisdiction to the exclusion of every other court.

(2) The department may collect the generation-skipping transfer tax under section 5 of this 1988 act, including interest and penalties, and shall represent this state in all matters pertaining to the same, either before courts or in any other manner. At any time after the Washington return is due, the department may file its findings regarding the amount of the tax, the federal credit, the person required to file the federal return, and all persons having an interest in property subject to the tax with the clerk of the superior court in the matter of the trust or the estate of the decedent, if any, or, if no trust, probate or administration proceedings have been commenced in any court of this state, of any superior court which has jurisdiction over the property. Such a court first acquiring jurisdiction shall retain jurisdiction to the exclusion of every other court.

((~~(2) Nothing in this chapter denies the right of appellate review as provided by law and the Washington appellate rules.~~))

NEW SECTION. Sec. 15. CLERK TO GIVE NOTICE OF FINDINGS. Upon filing findings under RCW 83.100.150, the clerk of the superior court shall give notice of the filing to all persons interested in the proceeding by causing notice thereof to be posted at the courthouse in the county in which the court is located, and in addition thereto shall mail a copy of the notice to all persons having an interest in property subject to the tax.

NEW SECTION. Sec. 16. COURT ORDER. At any time after the expiration of sixty days from the mailing of the notice under section 15 of this act, if no objection to the findings is filed, the superior court or a judge thereof shall, without further notice, give and make its order confirming the findings and fixing the tax in accordance therewith.

NEW SECTION. Sec. 17. OBJECTIONS. At any time prior to the making of an order under section 16 of this act, any person having an interest in property subject to the tax may file objections in writing with the clerk of the superior court and serve a copy thereof upon the department, and the same shall be noted for trial before the court and a hearing had thereon as provided for hearings in chapter 11.96 RCW.

NEW SECTION. Sec. 18. HEARING BY COURT. Upon the hearing of objections under section 17 of this act, the court shall make such order as it may deem proper. For the purposes of the hearing, the findings of the department shall be presumed to be correct and it shall be the duty of the objector or objectors to proceed in support of the objection or objections.

NEW SECTION. Sec. 19. ADMINISTRATION——RULES. The department shall adopt such rules as may be necessary to carry into effect the provisions of this chapter, including rules relating to returns for taxes due under this chapter. The rules shall have the same force and effect as if specifically set forth in this chapter, unless declared invalid by a judgment of a court of record not appealed from.

NEW SECTION. Sec. 20. REPEALER. Section 83.100.100, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.100 are each repealed.

PART II

Sec. 21. Section 82.32.240, chapter 15, Laws of 1961 as amended by section 86, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.32.240 are each amended to read as follows:

Any tax due and unpaid and all increases and penalties thereon, shall constitute a debt to the state and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies.

In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, involving any taxpayer who is, or decedent who was, engaging in business, the claim of the state for said taxes and all increases and penalties thereon shall be a lien upon all real and personal property of the taxpayer, and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and in all such cases it shall be the duty of all administrators, executors, guardians, receivers, trustees in bankruptcy or assignees for the benefit of creditors, to notify the department of revenue of such administration, receivership or assignment within ((~~thirty~~)) sixty days from the date of their appointment and qualification.

The lien provided for by this section shall attach as of the date of the assignment for the benefit of creditors or of the initiation of the probate, insolvency, or bankruptcy proceedings: PROVIDED, That this sentence shall not be construed as affecting the validity or priority of any earlier lien that may have attached previously in favor of the state under any other section of this title.

Any administrator, executor, guardian, receiver or assignee for the benefit of creditors not giving the notification as provided for above shall become personally liable for payment of the taxes and all increases and penalties thereon to the extent of the value of the property subject to administration that otherwise would have been available for the payment of such taxes, increases, and penalties by the administrator, executor, guardian, receiver, or assignee.

Sec. 22. Section 11.40.080, chapter 145, Laws of 1965 and RCW 11-.40.080 are each amended to read as follows:

No holder of any claim against a decedent shall maintain an action thereon, unless the claim shall have been first presented as herein provided. Nothing in this chapter affects the notice under RCW 82.32.240.

PART III

Sec. 23. Section 11.08.160, chapter 145, Laws of 1965 as amended by section 1, chapter 278, Laws of 1975 1st ex. sess. and RCW 11.08.160 are each amended to read as follows:

The department of revenue of this state shall have supervision of and jurisdiction over escheat property and may institute and prosecute any proceedings, including any proceeding under chapter 11.62 RCW, deemed necessary or proper in the handling of such property, and it shall be the duty of the department of revenue to protect and conserve escheat property for the benefit of the permanent common school fund of the state until such property or the proceeds thereof have been forwarded to the state treasurer or the state land commissioner as hereinafter provided.

Sec. 24. Section 29, chapter 234, Laws of 1977 ex. sess. and RCW 11-.62.005 are each amended to read as follows:

As used in this chapter, the following terms shall have the meanings indicated.

(1) "Personal property" shall include any tangible personal property, any instrument evidencing a debt, obligation, stock, chose in action, license or ownership, any debt or any other intangible property.

(2) (a) "Successor" and "successors" shall mean (subject to subsection (2)(b) of this section):

(i) That person or those persons who are entitled to the claimed property pursuant to the terms and provisions of the last will and testament of the decedent or by virtue of the laws of intestate succession contained in this title; and/or

(ii) The surviving spouse of the decedent to the extent that the surviving spouse is entitled to the property claimed as his or her undivided one-half interest in the community property of said spouse and the decedent; and/or

(iii) This state, in the case of escheat property.

(b) Any person claiming to be a successor solely by reason of being a creditor of the decedent or of the decedent's estate shall be excluded from the definition of "successor".

(3) "Person" shall mean any individual or organization.

(4) "Organization" shall include 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.

Sec. 25. Section 4, chapter 117, Laws of 1974 ex. sess. as last amended by section 1, chapter 157, Laws of 1987 and RCW 11.62.010 are each amended to read as follows:

(1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ten thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a

person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

((~~(4) Upon receipt of notification from the inheritance tax division of the state department of revenue that an inheritance tax report is requested, the holder of any property subject to claim by a successor hereunder shall withhold payment, delivery, transfer or issuance of such property until provided with an inheritance tax release.~~))

PART IV

Sec. 26. Section 14, chapter 63, Laws of 1986 and RCW 83.110.903 are each amended to read as follows:

APPLICATION. This chapter does not apply to taxes due on account of the death of decedents dying prior to January 1, 1987, or on or after January 1, 1987, if at all times after June 11, 1986, the decedent was not competent to change the disposition of his or her property by will.

PART V

Sec. 27. Section 106, chapter 30, Laws of 1985 and RCW 11.108.010 are each amended to read as follows:

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

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) The term "marital deduction" means the federal estate tax deduction allowed for transfers under section 2056 of the internal revenue code.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction.

(5) The term "governing instrument" includes a will and codicils, irrevocable, and revocable trusts.

(6) "Fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) References to the "internal revenue code" are to the United States internal revenue code of ((~~1954~~)) 1986, as it is amended from time to time. Each reference to a section of the internal revenue code refers as well to any subsequent provisions of law enacted in its place.

(8) The term "gift" refers to all legacies, devises, and bequests made in a governing instrument.

Sec. 28. Section 107, chapter 30, Laws of 1985 and RCW 11.108.020 are each amended to read as follows:

MARITAL DEDUCTION GIFT——COMPLIANCE WITH INTERNAL REVENUE CODE——INTENT. If a governing instrument contains a marital deduction gift, the governing instrument, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the marital deduction provisions of the internal revenue code and the regulations thereunder in order to conform to that intent. Whether the governing instrument contains a marital deduction gift depends upon the intent of the testator, grantor, or other transferor at the time the governing instrument is executed. If the testator, grantor, or other transferor has adequately evidenced an intention to make a marital deduction gift, the fiduciary shall not take any action or have any power that may impair that deduction((:)), but this ((~~section shall neither~~)) does not require ((~~nor prohibit a~~)) the fiduciary ((~~from making~~)) to make the election ((~~referred to in~~)) under section 2056(b)(7) of the internal revenue code that is referred to in section 29 of this 1988 act.

NEW SECTION. Sec. 29. A new section is added to chapter 11.108 RCW to read as follows:

ELECTION TO QUALIFY PROPERTY FOR THE MARITAL DEDUCTION. Unless a governing instrument directs to the contrary:

(1) The fiduciary shall have the power to make elections, in whole or in part, to qualify property for the marital deduction as qualified terminable interest property under section 2056(b)(7) of the internal revenue code.

(2) The fiduciary making an election under section 2056(b)(7) of the internal revenue code may benefit personally from the election, with no duty to reimburse any other person interested in the election. The fiduciary shall have no duty to make any equitable adjustment and shall have no duty to treat interested persons impartially in respect of the election.

PART VI

NEW SECTION. Sec. 30. CAPTIONS. As used in this act, captions constitute no part of the law.

NEW SECTION. Sec. 31. 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. 32. LEGISLATIVE DIRECTIVE. Sections 5 and 15 through 19 of this act are each added to chapter 83.100 RCW.

NEW SECTION. Sec. 33. RETROSPECTIVE APPLICATION. Section 26 of this act applies retrospectively to January 1, 1987.

NEW SECTION. Sec. 34. EFFECTIVE DATE. 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, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 65

[House Bill No. 1693]

EDUCATIONAL SERVICE DISTRICTS—SERVICES FOR SCHOOL FOR THE DEAF OR SCHOOL FOR THE BLIND

AN ACT Relating to authorizing educational service districts to contract with the school for the deaf and the school for the blind; and amending RCW 28A.21.010, 28A.21.086, and 28A.21.090.

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

Sec. 1. Section 1, chapter 176, Laws of 1969 ex. sess. as last amended by section 1, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.010 are each amended to read as follows:

It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

(1) Provide cooperative and informational services to local school districts;

(2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties; and

(3) Provide services to school districts and to the school for the deaf and the school for the blind to assure equal educational opportunities.

Sec. 2. Section 11, chapter 282, Laws of 1971 ex. sess. as last amended by section 3, chapter 508, Laws of 1987 and RCW 28A.21.086 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district: PROVIDED, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW 28A.58.107(3), as now or hereafter amended: PROVIDED, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under chapter 28A.13 RCW, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the school for the deaf and the school for the blind to provide transportation services.

Sec. 3. Section 9, chapter 176, Laws of 1969 ex. sess. as last amended by section 3, chapter 56, Laws of 1983 and RCW 28A.21.090 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chairman or a majority of the board.

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.21.100, as now or hereafter amended.

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(6) Acquire by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board

and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes: PROVIDED, That no real property shall be acquired or alienated without the prior approval of the state board of education.

(7) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(8) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.21.086(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

Passed the House February 13, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 66

[Engrossed Substitute Senate Bill No. 6742]

YAKIMA COUNTY—SUPERIOR COURT JUDGES

AN ACT Relating to superior court judges; amending RCW 2.08.063 and 2.32.180; and creating a new section.

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

Sec. 1. Section 5, chapter 125, Laws of 1951 as last amended by section 1, chapter 49, Laws of 1975 1st ex. sess. and RCW 2.08.063 are each amended to read as follows:

There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, two judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima ((~~five~~)) six judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, three judges of the superior court.

NEW SECTION. Sec. 2. The additional judicial position created by section 1 of this act in Yakima county shall be effective only if the county through its legislative authority documents its approval by January 1, 1990, of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities.

Sec. 3. Section 1, chapter 126, Laws of 1913 as last amended by section 4, chapter 323, Laws of 1987 and RCW 2.32.180 are each amended to read as follows:

It shall be and is the duty of each and every superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand, appoint a stenographic reporter to be attached to the court holden by him who shall have had at least three years' experience as a skilled, practical reporter, or who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987 or the additional superior court judge authorized by section 1 of this 1988 act. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge.

The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he is appointed: PROVIDED, That in no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each class AA county shall be made by the majority vote of the judges in said county acting en banc; the appointments in class A counties and counties of the first class may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him, but may be removed for incompetency, misconduct or neglect of duty, and before entering upon the discharge of his duties shall take an oath to perform faithfully the duties of his office, and file a bond in the sum of two thousand dollars for the

faithful discharge of his duties. Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington.

Passed the Senate February 12, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 67

[Engrossed Substitute House Bill No. 1089]

BUSINESS AND OCCUPATION TAX—EMPLOYEE BENEFIT PLANS

AN ACT Relating to the business and occupation tax on amounts received for employee benefits; amending RCW 82.04.4297; and declaring an emergency.

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

Sec. 1. Section 17, chapter 37, Laws of 1980 and RCW 82.04.4297 are each amended to read as follows:

In computing tax there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization or by a municipal corporation or political subdivision, except deductions are not allowed under this section for amounts that are received under an employee benefit plan.

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 15, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 68

[Substitute House Bill No. 1336]

FRESH PERISHABLE HORTICULTURAL PRODUCTS—MATERIALS AND SUPPLIES USED IN PACKING ARE SALES AND USE TAX EXEMPT

AN ACT Relating to retail sales and use tax exemptions for receiving, washing, sorting, and packing horticultural products; 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 materials and supplies directly used in the packing of fresh perishable horticultural products by any person entitled to a deduction under RCW 82.04.4287 either as an agent or an independent contractor.

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 materials and supplies directly used in the packing of fresh perishable horticultural products by any person entitled to a deduction under RCW 82-.04.4287 either as an agent or an independent contractor.

Passed the House February 9, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 69

[Senate Bill No. 6227]

ACKNOWLEDGMENTS

AN ACT Relating to acknowledgments; and amending RCW 64.08.050, 64.08.060, 64-.08.070, and 42.44.100.

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

Sec. 1. Section 6, chapter 33, Laws of 1929 and RCW 64.08.050 are each amended to read as follows:

The officer, or person, taking an acknowledgment as in this ((~~act~~)) chapter provided, shall certify the same by a certificate written upon or annexed to the instrument acknowledged and signed by him or her and sealed with his or her official seal, if any ((~~he has~~)), and reciting in substance that the person, or persons, known to him or her as, or determined by satisfactory evidence to be, the person, or persons, whose name, or names, are signed to the instrument as executing the same, acknowledged before him or her on the date stated in the certificate that he, she, or they, executed the same freely and voluntarily((~~, on the date stated in the certificate~~)). Such certificate shall be prima facie evidence of the facts therein recited. The officer or person taking the acknowledgment has satisfactory evidence that a person is the person whose name is signed on the instrument if that person: (1) Is personally known to the officer or person taking the acknowledgment; (2) is identified upon the oath or affirmation of a credible witness personally known to the officer or person taking the acknowledgment; or (3) is identified on the basis of identification documents.

Sec. 2. Section 13, chapter 33, Laws of 1929 and RCW 64.08.060 are each amended to read as follows:

A certificate of acknowledgment for an individual, substantially in the following form or, after December 31, 1985, substantially in the form set forth in RCW 42.44.100(1), shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of .....
} ss.
County of .....

On this day personally appeared before me (here insert the name of grantor or grantors) to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he (she or they) signed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this ..... day of ....., 19... (Signature of officer and official seal)

If acknowledgment is taken before a notary public of this state the signature shall be followed by substantially the following: Notary Public in and for the state of Washington, residing at ....., (giving place of residence).

Sec. 3. Section 14, chapter 33, Laws of 1929 and RCW 64.08.070 are each amended to read as follows:

A certificate((s)) of acknowledgment ((~~of an instrument acknowledged by~~)) for a corporation ((~~shall be in~~)), substantially in the following form or, after December 31, 1985, substantially in the form set forth in RCW 42.44.100(2), shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of .....
} ss.
County of .....

On this ..... day of ....., 19.., before me personally appeared ....., to me known to be the (president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written. (Signature and title of officer with place of residence of notary public.)

Sec. 4. Section 10, chapter 156, Laws of 1985 and RCW 42.44.100 are each amended to read as follows:

The following short forms of notarial certificates are sufficient for the purposes indicated, if completed with the information required by this section:

(1) For an acknowledgment in an individual capacity:

State of Washington
County of _____

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

_____
(Signature ((~~of notary public~~)))

(Seal or stamp)

_____
Title
My appointment expires _____

(2) For an acknowledgment in a representative capacity:

State of Washington
County of _____

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

_____
(Signature ((~~of notary public~~)))

(Seal or stamp)

_____
Title
My appointment expires _____

(3) For a verification upon oath or affirmation:

State of Washington
County of _____

Signed and sworn to (or affirmed) before me on ___(date)___ by ___(name of person making statement).

_____
(Signature ((~~of notary public~~)))

(Seal or stamp)

_____
Title
My appointment expires _____

(4) For witnessing or attesting a signature:

State of Washington
County of _____

Signed or attested before me on _____ by _____.

_____
(Signature ((~~of notary public~~)))

(Seal or stamp)

_____
Title
My appointment expires _____

(5) For attestation of a copy of a document:

State of Washington
County of _____

I certify that this is a true and correct copy of a document in the possession of _____ as of this date.

Dated: _____

_____
(Signature ((~~of notary public~~)))

(Seal or stamp)

_____
Title
My appointment expires _____

(6) For certifying the occurrence of an event or the performance of an act:

State of Washington
County of _____

I certify that the event or act described in this document has occurred or been performed.

Dated: _____

(Signature ((~~of notary public~~)))

(Seal or stamp)

Title

My appointment expires _____

Passed the Senate February 13, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 70

[Senate Bill No. 6313]

STATE FOREST LAND—RETIREMENT OF INTERFUND LOANS FROM THE RESOURCE MANAGEMENT COST ACCOUNT TO THE FOREST DEVELOPMENT ACCOUNT

AN ACT Relating to the retirement of interfund loans from the resource management cost account to the forest development account; amending RCW 76.12.120 and 79.64.030; adding a new section to chapter 79.12 RCW; and creating a new section.

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

Sec. 1. Section 7, chapter 154, Laws of 1923 as last amended by section 11, chapter 154, Laws of 1980 and RCW 76.12.120 are each amended to read as follows:

All land, acquired or designated by the board as state forest land, shall be forever reserved from sale, but the timber and other products thereon may be sold or the land may be leased in the same manner and for the same purposes as is authorized for state granted land if the board finds such sale or lease to be in the best interests of the state and approves the terms and conditions thereof.

Except as provided in section 3 of this 1988 act, all money derived from the sale of timber or other products, or from lease, or from any other source from the land, except where the Constitution of this state or RCW 76.12.030 requires other disposition, shall be disposed of as follows:

(1) Fifty percent shall be placed in the forest development fund.

(2) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 as now or hereafter amended and the levy rate for any maintenance and operation special school levies. The money distributed to the county shall be paid, distributed, and prorated to the various other funds

in the same manner as general taxes are paid and distributed during the year of payment.

NEW SECTION. Sec. 2. The purpose of section 3 of this act is to provide a means to retire interfund loans authorized by RCW 79.64.030 from the resource management cost account to the forest development account. The resource management cost account is an asset of the federal land grant trusts. Section 3 of this act is intended to authorize a process by which the interfund loans may be repaid such that the federal land grant trusts will receive full fair market value without disruption in income to counties and the state general fund from management activities on state forest lands managed pursuant to chapter 79.12 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 79.12 RCW to read as follows:

(1) The department of natural resources is authorized to:

(a) Determine the total present account balance with interest of the interfund loans made by the resource management cost account to the forest development account in accordance with generally accepted accounting principles;

(b) Subject to approval of the board of natural resources, effectuate a transfer of timber cutting rights on forest board purchase lands to the federal land grant trusts in such proportion that each trust receives full and fair market value for the interfund loans and is fully repaid or so much thereof as possible within distribution constraints described in subsection (2) of this section.

(2) After the effective date of the transfer authorized by subsection (1)(b) of this section and until the exercise of the cutting rights on the timber transferred has been fully satisfied, the distribution of revenue from timber management activities on forest board purchase lands on which cutting rights have been transferred shall be as follows:

(a) As determined by the board of natural resources, an amount no greater than thirty-three and three-tenths percent to be distributed to the federal land grant trust accounts and resource management cost account as directed by RCW 79.64.040 and 79.64.050;

(b) As determined by the board of natural resources, an amount not less than sixteen and seven-tenths percent to the forest development account;

(c) Fifty percent to be distributed as provided in RCW 76.12.120(2).

Sec. 4. Section 3, chapter 178, Laws of 1961 as amended by section 2, chapter 159, Laws of 1977 ex. sess. and RCW 79.64.030 are each amended to read as follows:

Funds in the account derived from the gross proceeds of leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department and affecting school lands, university lands, agricultural college

lands, scientific school lands, normal school lands, capitol building lands, or institutional lands shall be expended by the department solely for the purpose of defraying the costs and expenses necessarily incurred in managing and administering public lands of the same trust: PROVIDED, That such funds may be used for similar costs and expenses in managing and administering other lands managed by the department: PROVIDED FURTHER, That such expenditures that have been or may be made on such other lands shall be repaid to the resource management cost account together with interest at ((~~the rate provided for in RCW 79.01.216~~)) a rate determined by the board of natural resources.

An accounting shall be made annually of the accrued expenditures as regards each trust. In the event the accounting determines that expenditures have been made from moneys derived from one category of trust lands for the benefit of another trust or other lands, such expenditure shall be considered a debt against the trust benefited and shall be considered an encumbrance against the property of the trust or trust funds benefited, including property held under chapter 76.12 RCW. The results of the accounting shall be reported to the legislature at the next regular session. The state treasurer is authorized, upon request of the department, to transfer funds between the forest development account and the resource management cost account solely for purpose of repaying loans pursuant to this section.

Passed the Senate February 15, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 71

[Substitute Senate Bill No. 6402]

VENUE—DISTRICT COURT CIVIL ACTIONS

AN ACT Relating to venue in district court civil actions; and amending RCW 3.66.040.

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

Sec. 1. Section 115, chapter 299, Laws of 1961 as amended by section 42, chapter 258, Laws of 1984 and RCW 3.66.040 are each amended to read as follows:

(1) An action arising under RCW 3.66.020 (1), (2) except for the recovery of possession of personal property, (4), (6), (7), and (9) may be brought in any district in which the defendant, or, if there be more than one defendant, where some one of the defendants, resides at the time the complaint is filed or in which the defendant, or if there be more than one defendant, where some one of the defendants may be served with the notice

and complaint in which latter case, however, the district where the defendant or defendants is or are served must be within the county in which the said defendant or defendants reside. If the residence of the defendant is not ascertained by reasonable efforts, the action may be brought in the district in which the defendant's place of actual physical employment is located.

(2) An action arising under RCW 3.66.020(2) for the recovery of possession of personal property and RCW 3.66.020(8) shall be brought in the district in which the subject matter of the action or some part thereof is situated.

(3) An action arising under RCW 3.66.020 (3) and (5) shall be brought in the district in which the cause of action, or some part thereof arose.

(4) An action arising under RCW 3.66.020(2) for the recovery of damages for injuries to the person or for injury to personal property arising from a motor vehicle accident may be brought, at the plaintiff's option, either in the district in which the cause of action, or some part thereof, arose, or in the district in which the defendant, or, if there be more than one defendant, where some one of the defendants, resides at the time the complaint is filed.

(5) An action against a nonresident of this state may be brought in any district where service of process may be had, or in which the cause of action or some part thereof arose, or in which the plaintiff or one of them resides.

(6) For the purposes of chapters 3.30 through 3.74 RCW, the residence of a corporation defendant shall be deemed to be in any district where the corporation transacts business or has an office for the transaction of business or transacted business at the time the cause of action arose or where any person resides upon whom process may be served upon the corporation, unless herein otherwise provided.

Passed the Senate February 13, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 72

[Senate Bill No. 6412]

MOTOR VEHICLES—RETAIL INSTALLMENT CONTRACTS—PUBLICATION OF INTEREST RATES

AN ACT Relating to the publication of interest rates on retail installment contracts for the purchase of motor vehicles; amending RCW 63.14.135; and declaring an emergency.

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

Sec. 1. Section 2, chapter 60, Laws of 1986 and RCW 63.14.135 are each amended to read as follows:

(1) 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)~~)).

(2) On or before the first Wednesday of the last month of each calendar quarter the state treasurer shall compute the maximum service charge allowed for a retail installment contract for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) for the succeeding calendar quarter. 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 quarter in compliance with RCW 34.08.020.

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 16, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 73

[Engrossed Senate Bill No. 6563]
RECORDING OF FEDERAL LIENS

AN ACT Relating to the recording of federal liens; adding new sections to chapter 60.68 RCW; repealing RCW 60.68.010, 60.68.020, 60.68.030, 60.68.040, and 60.68.050; and providing an effective date.

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

NEW SECTION. Sec. 1. This chapter applies only to federal tax liens and to other federal liens, notices of which under any act of congress or any regulation adopted pursuant thereto are required or permitted to be recorded in the same manner as notices of federal tax liens.

NEW SECTION. Sec. 2. (1) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be recorded for record in accordance with this chapter.

(2) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be recorded in the office of the recorder of the county in which the real property subject to the liens is situated.

(3) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be recorded or filed as follows:

(a) With the department of licensing if the person against whose interest the lien applies is a corporation or a partnership, as defined under federal internal revenue laws, whose principal executive office is in Washington;

(b) In all other cases, with the recorder of the county where the person against whose interest the lien applies resides at the time of recording of the notice of lien.

NEW SECTION. Sec. 3. Certification of notices of liens, certificates, or other notices affecting federal liens by the United States secretary of the treasury or the secretary's delegate, or by an official or entity of the United States responsible for recording or certifying of notice of any other lien, entitles those liens to be recorded and no other attestation, certification, or acknowledgement is necessary.

NEW SECTION. Sec. 4. (1) The fee for recording a lien on personal property or real estate with the county auditor shall be as set forth in RCW 36.18.010.

(2) The fee for filing liens of personal property with the department of licensing of the state of Washington shall be as determined by the department.

(3) The recording officer shall bill the district directors of the internal revenue service or other appropriate federal officials on a monthly basis for fees for documents filed for record by them.

NEW SECTION. Sec. 5. When a notice of such tax lien is recorded, the county auditor shall forthwith enter it in an alphabetical tax lien index to be provided by the board of county commissioners showing on one line the name and residence of the taxpayer named in the notice, the collector's serial number of the notice, the date and hour of recording, and the amount of tax and penalty assessed.

NEW SECTION. Sec. 6. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

NEW SECTION. Sec. 7. This chapter may be known and cited as the uniform federal lien registration act.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 15, Laws of 1925 and RCW 60.68.010;

(2) Section 2, chapter 15, Laws of 1925 and RCW 60.68.020;

(3) Section 3, chapter 15, Laws of 1925 and RCW 60.68.030;

(4) Section 4, chapter 15, Laws of 1925, section 1, chapter 250, Laws of 1955, section 1, chapter 62, Laws of 1977 and RCW 60.68.040; and

(5) Section 5, chapter 15, Laws of 1925 and RCW 60.68.050.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act are each added to chapter 60.68 RCW.

NEW SECTION. Sec. 10. This act shall take effect July 1, 1988.

Passed the Senate February 13, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 15, 1988.
Filed in Office of Secretary of State March 15, 1988.

CHAPTER 74

[Substitute House Bill No. 1612]

PARKING SPACES FOR DISABLED PERSONS—SIGN REQUIREMENTS—CLASS 4 CIVIL INFRACTIONS

AN ACT Relating to signing of parking places for disabled persons; amending RCW 46.61.581; and prescribing penalties.

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

Sec. 1. Section 4, chapter 154, Laws of 1984 and RCW 46.61.581 are each amended to read as follows:

A parking space or stall for a ((~~physically~~)) disabled person shall be indicated by((~~:~~

~~(1) A painted white line, at least six inches in width on the improved surface delineating the perimeter of the parking space or stall; and~~

~~(2)~~)) a vertical sign, between ((~~forty-eight~~)) thirty-six and ((~~sixty~~)) eighty-four inches off the ground, with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120 and the notice "State disabled parking permit required."

((~~This section shall not apply to vertical signs in use on June 7, 1984, except that within two years of this date each vertical sign must display the notice "State disabled parking permit required."~~))

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 4 civil infraction under chapter 7.80 RCW for each parking space that should be so designated.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 75

[Substitute House Bill No. 1862]

SEASHORE CONSERVATION AREA—RECREATION MANAGEMENT PLANS FOR THE OCEAN BEACHES

AN ACT Relating to the Seashore Conservation Area; amending RCW 43.51.675 and 43.51.685; adding new sections to chapter 43.51 RCW; repealing RCW 43.51.680, 79.94.340, 79.94.350, 79.94.360, 79.94.370, and 79.94.380; and providing an effective date.

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

NEW SECTION. Sec. 1. A cooperative program to provide recreation management plans for the ocean beaches that comprise the Seashore Conservation Area established by RCW 43.51.655 is created.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply to RCW 43.51.650 through 43.51-.685 and sections 1 through 15 of this act.

(1) "Local government" means a county, city, or town.

(2) "Ocean beaches" include the three ocean beaches described in RCW 43.51.655.

(3) "Pedestrian use" means any use that does not involve a motorized vehicle.

NEW SECTION. Sec. 3. Local governments having a portion of the Seashore Conservation Area within their boundaries may, individually or through an agreement with other local governments located on the same ocean beach, adopt a recreation management plan which meets the requirements of RCW 43.51.650 through 43.51.685 and sections 1 through 15 of this act for that portion of the ocean beach. The legislature hereby encourages adoption of a single plan for each beach.

NEW SECTION. Sec. 4. (1) Except as provided in sections 5 and 6 of this act, a total of forty percent of the length of the beach subject to the recreation management plan shall be reserved for pedestrian use under this section and section 7 of this act. Restrictions on motorized traffic under this section shall be from April 15 to the day following Labor day of each year. Local jurisdictions may adopt provisions within recreation management plans that exceed the requirements of this section. The commission shall not require that a plan designate for pedestrian use more than forty percent of the land subject to the plan.

(2) In designating areas to be reserved for pedestrian use, the plan shall consider the following:

(a) Public safety;

(b) State-wide interest in recreational use of the ocean beaches;

(c) Protection of shorebird and marine mammal habitats;

(d) Preservation of native beach vegetation;

(e) Protection of sand dune topography;

(f) Prudent management of clam beds;

(g) Economic impacts to the local community; and

(h) Public access and parking availability.

NEW SECTION. Sec. 5. Notwithstanding section 4 (1) of this act, recreation management plans may make provision for vehicular traffic on areas otherwise reserved for pedestrian use in order to:

(1) Facilitate clam digging;

(2) Accommodate organized recreational events of not more than seven consecutive days duration;

(3) Provide for removal of wood debris under RCW 4.24.210 and 43.51.045(5); and

(4) Accommodate removal of sand located upland from the Seashore Conservation Area or removal of sand within the Seashore Conservation Area under the terms of a covenant, easement, or deed.

NEW SECTION. Sec. 6. Recreation management plans shall not prohibit or restrict public vehicles operated in the performance of official duties or vehicles responding to an emergency.

NEW SECTION. Sec. 7. Recreation management plans shall, upon request of the commission, reserve on a permanent, seasonal, or temporary basis, land adjoining national wildlife refuges and state parks for pedestrian use. After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan governing driving on land adjoining wildlife refuges and state parks. Land reserved for pedestrian use under this section for at least the period from April 15th through the day following Labor Day of each year shall be included when determining compliance with the requirements of section 4 of this act.

NEW SECTION. Sec. 8. In preparing, adopting, or approving a recreation management plan, local jurisdictions and the commission shall consult with the department of fisheries, the department of wildlife and the United States fish and wildlife service.

NEW SECTION. Sec. 9. Recreation management plans shall comply with all applicable federal and state laws.

NEW SECTION. Sec. 10. Before adopting a recreation management plan, or amendments to an existing plan, local jurisdictions shall conduct a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in each jurisdiction adopting the plan as well as in a newspaper of general state-wide circulation on at least two occasions not less than fourteen days before the first day of the hearing. When a proposed recreation management plan has been prepared by more than one jurisdiction, joint hearings may be conducted.

NEW SECTION. Sec. 11. Recreation management plans shall be adopted by each participating jurisdiction and submitted to the commission by September 1, 1989. The commission shall approve the proposed plan if, in the commission's judgment, the plan adequately fulfills the requirements of RCW 43.51.650 through 43.51.685 and sections 1 through 15 of this act.

If the proposed plan is not approved, the commission shall suggest modifications to the participating local governments. Local governments shall have ninety days after receiving the suggested modifications to resubmit a recreation management plan. Thereafter, if the commission finds that a plan does not adequately fulfill the requirements of RCW 43.51.650 through 43.51.685 and sections 1 through 15 of this act, the commission may amend the proposal or adopt an alternative plan.

If a plan for all or any portion of the Seashore Conservation Area is not submitted in accordance with sections 1 through 15 of this act, the commission shall adopt a recreation management plan for that site.

Administrative rules adopted by the commission under RCW 43.51-.680 shall remain in effect for all or any portion of each ocean beach until a recreation management plan for that site is adopted or approved by the commission.

The commission shall not adopt a recreation management plan for all or any portion of an ocean beach while appeal of a commission decision regarding that site is pending.

NEW SECTION. Sec. 12. Any individual, partnership, corporation, association, organization, cooperative, local government, or state agency aggrieved by a decision of the commission under sections 1 through 15 of this act may appeal under chapter 34.04 RCW.

NEW SECTION. Sec. 13. The commission shall cooperate with state and local law enforcement agencies in meeting the need for law enforcement within the Seashore Conservation Area.

NEW SECTION. Sec. 14. The ocean beaches within the Seashore Conservation Area are hereby declared a public highway and shall remain forever open to the use of the public as provided in sections 1 through 15 of this act.

NEW SECTION. Sec. 15. Amendments to the recreation management plan may be adopted jointly by each local government participating in the plan and submitted to the commission for approval. The commission shall approve a proposed amendment if, in the commission's judgment, the amendment adequately fulfills the requirements of RCW 43.51.650 through 43.51.685 and sections 1 through 15 of this act.

After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan if the commission finds that such amendments are necessary to protect public health and safety, or to protect

significant natural resources as determined by the agency having jurisdiction over the resource.

NEW SECTION. Sec. 16. Sections 1 through 15 of this act are added to chapter 43.51 RCW under the subchapter heading "Seashore Conservation Area."

Sec. 17. Section 6, chapter 120, Laws of 1967 as last amended by section 92, chapter 506, Laws of 1987 and RCW 43.51.675 are each amended to read as follows:

Nothing in RCW 43.51.650 through 43.51.685 and sections 1 through 15 of this 1988 act shall be construed to interfere with the powers, duties and authority of the department of fisheries to regulate the conservation or taking of food fish and shellfish. Nor shall anything in RCW 43.51.650 through 43.51.685 and sections 1 through 15 of this 1988 act be construed to interfere with the powers, duties and authority of the state department of wildlife to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park.

Sec. 18. Section 8, chapter 120, Laws of 1967 as amended by section 6, chapter 55, Laws of 1969 ex. sess. and RCW 43.51.685 are each amended to read as follows:

((~~Jurisdiction over the accreted nontrust lands in which the state has an interest along the ocean is hereby transferred from the department of natural resources to the state parks and recreation commission. No such accreted~~)) Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as herein provided. The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the exploration and production of oil and gas: PROVIDED, That oil drilling rigs and equipment will not be placed on the seashore conservation area or state-owned accreted lands.

Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the ((~~state parks and recreation~~)) commission to be reasonable, and not generally harmful or destructive to the character of the land((~~: PROVIDED FURTHER, That the state parks and recreation commission may grant mining leases for the removal of "black sands" (minerals) from any state-owned nontrust accreted lands and tidelands between the north jetty at the mouth of the Columbia River and a line due west from the North Head Lighthouse~~)): PROVIDED ((~~FURTHER~~)), That the ((~~state parks and recreation~~)) commission may grant leases and permits for the removal of sands for construction purposes from any lands within the

((~~Washington State~~)) Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land: PROVIDED FURTHER, That net income from such leases shall be deposited in the general fund.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) Section 46.08.180, chapter 12, Laws of 1961, section 7, chapter 120, Laws of 1967, section 110, chapter 3, Laws of 1983 and RCW 43.51-.680;

(2) Section 119, chapter 21, Laws of 1982 1st ex. sess. and RCW 79-.94.340;

(3) Section 120, chapter 21, Laws of 1982 1st ex. sess. and RCW 79-.94.350;

(4) Section 121, chapter 21, Laws of 1982 1st ex. sess. and RCW 79-.94.360;

(5) Section 122, chapter 21, Laws of 1982 1st ex. sess. and RCW 79-.94.370; and

(6) Section 123, chapter 21, Laws of 1982 1st ex. sess. and RCW 79-.94.380.

NEW SECTION. Sec. 20. This act shall take effect January 1, 1989.

Passed the House February 12, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 76

[Senate Bill No. 6101]

STATE BOARD FOR COMMUNITY COLLEGE EDUCATION—MEMBERSHIP CRITERIA

AN ACT Relating to state board for community college education members; amending RCW 28B.50.050; and declaring an emergency.

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

Sec. 1. Section 28B.50.050, chapter 223, Laws of 1969 ex. sess. as last amended by section 64, chapter 287, Laws of 1984 and RCW 28B.50.050 are each amended to read as follows:

There is hereby created the "state board for community college education", to consist of eight members, one from each congressional district, as now or hereafter existing, who shall be appointed by the governor, with the consent of the senate. The successors of the members initially appointed shall be appointed for terms of four years except that any persons appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until

the appointment and qualification of his successor. All members shall be citizens and bona fide residents of the state. ((~~No member of the college board shall be, during his term of office, also a member of the state board of education, a member of a K-12 board, a member of the governing board of any public or private educational institution, a member of a community college board of trustees, or an employee of any of the above boards, or have any direct pecuniary interest in education within this state.~~))

The board shall not be deemed unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

Members of the college board shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for each day actually spent in attending to the duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B.10.500.

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 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 77

[House Bill No. 1361]

TWENTY-FOURTH COMMUNITY COLLEGE DISTRICT CREATED—DISTRICT TWELVE SPLIT

AN ACT Relating to the creation of the twenty-fourth community college district; amending RCW 28B.50.040; creating new sections; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 28B.50.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 72, Laws of 1981 and RCW 28B.50.040 are each amended to read as follows:

The state of Washington is hereby divided into ((~~twenty-three~~)) twenty-four community college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district and that portion encompassed by the twenty-third district created in subsection (23) of this section: PROVIDED, That the fifth district shall encompass the Everett Community College;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundaries of the common school districts of Shoreline in King county and Northshore in King and Snohomish counties;

(8) The eighth district shall encompass the present boundaries of the common school districts of Lake Washington, Bellevue, Issaquah, Lower Snoqualmie, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass ((~~the counties of~~)) Lewis ((~~and Thurston~~)) county, the Rochester common school district No. 401, the Tenino common school district No. 402 of Thurston county, and the Thurston county portion of the Centralia common school district No. 401;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln

county portion of common school district 167–202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105–157–166J and common school district 167–202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty–first district shall encompass Whatcom county;

(22) The twenty–second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county;

(23) The twenty–third district shall encompass that portion of Snohomish county within such boundaries as the state board for community college education shall determine: PROVIDED, That the twenty–third district shall encompass the Edmonds Community College; and

(24) The twenty–fourth district shall encompass all of Thurston county except the Rochester common school district No. 401, the Tenino common school district No. 402, and the Thurston county portion of the Centralia common school district No. 401.

NEW SECTION. Sec. 2. The current board of trustees of the twelfth community college district shall prepare a detailed plan to describe and accomplish the division of the twelfth district. This plan shall provide for the distribution of all personnel, physical and other assets, and any other details as prescribed by the state board for community college education. The plan shall contain specific provisions permitting the new twenty–fourth district and the twelfth district to continue recruiting students in both the twelfth and the new twenty–fourth districts for a period of three years. This plan shall be submitted to the state board for community college education for approval on or before May 1, 1988. The state board for community college education shall act on the plan and adjudicate all contested matters prior to June 30, 1988.

NEW SECTION. Sec. 3. After the effective date of this section, all campus employees of both Centralia Community College and South Puget Sound Community College shall continue to perform their usual duties upon the same terms as formerly, without any loss of rights. All campus employees of South Puget Sound Community College on the effective date of this section, whether classified under chapter 28B.16 RCW, the state higher education personnel law, faculty members, exempt employees, or otherwise employed by the community college district principally for South Puget Sound Community College purposes, shall be assigned to the twenty–fourth community college district to perform their usual duties upon the

same terms as formerly, without any loss of rights, subject to any appropriate action of the new community college board of trustees thereafter in accordance with the laws of this state.

Of those other employees of the twelfth community college district not considered campus employees, the community college board of trustees of the twelfth district shall make a fair allocation of those employees as between the twelfth district and the new twenty-fourth community college district. Whenever any question arises as to the assignment of these employees, the state board for community college education shall make a determination as to the proper assignment and shall certify its decision. All classified employees so allocated shall perform their duties upon the same terms as formerly and without any loss in rights, subject to any appropriate action of the community college board of trustees of the community college district to which they are allocated, in accordance with the laws of this state.

NEW SECTION. Sec. 4. All real and personal property, including but not limited to, all reports, documents, surveys, books, records, files, papers, or other writings in the possession of authorities, departments, and offices being a part of South Puget Sound Community College on the effective date of this section, shall be delivered to the custody of the new twenty-fourth community college district. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers and duties of South Puget Sound Community College on the effective date of this section, shall be made available to the new twenty-fourth community college district, on or before the effective date of this section. All funds, credits, or other assets held in connection with the powers and duties exercised with respect to South Puget Sound Community College on the effective date of this section shall be assigned to the new twenty-fourth community college district.

Any appropriations made to carry out the powers and duties exercised with respect to South Puget Sound Community College on the effective date of this section, shall on the effective date of this section be transferred and credited to the new twenty-fourth community college district for the purpose of carrying out such powers and duties.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under this act, the state board for community college education shall make a determination as to the proper allocation and certify the same to the agencies concerned.

NEW SECTION. Sec. 5. Members of the board of trustees of the twelfth community college district who reside within the boundaries of the

new twenty–fourth community college district shall be transferred to positions on the board of the twenty–fourth community college district. They shall serve until their existing term of office would have otherwise been completed. Additional trustees as needed shall be appointed to fill vacancies on the boards of the twelfth and twenty–fourth community college districts as otherwise provided in RCW 28B.50.100.

NEW SECTION. Sec. 6. All rules and all pending business before the South Puget Sound Community College on the effective date of this section shall be continued and acted upon by the new twenty–fourth community college district. All existing contracts and obligations pertaining to South Puget Sound Community College on the effective date of this section shall remain in full force and effect, and shall be performed by the new twenty–fourth community college district. No transfer under sections 2 through 10 of this act shall affect the validity of any particular act performed with respect to South Puget Sound Community College or by any officer or employee thereof, before the effective date of this section.

NEW SECTION. Sec. 7. If apportionments of budgeted funds are required because of the transfers authorized in sections 2 through 10 of this act, the state board for community college education shall certify such apportionments to the districts affected, the director of financial management, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification.

NEW SECTION. Sec. 8. Nothing contained in sections 2 through 10 of this act shall be construed to alter any provision of any existing collective bargaining agreement until any such agreement has expired or been modified pursuant to chapter 28B.52 RCW.

NEW SECTION. Sec. 9. Nothing in sections 2 through 10 of this act shall be construed to affect any existing rights, nor as affecting any actions, activities, or proceedings validated before the effective date of this section, nor as affecting any civil or criminal proceeding, nor any rule or order promulgated, nor any administrative action taken before the effective date of this section, and the validity of any act performed with respect to South Puget Sound Community College, or any officer or employee thereof prior to the effective date of this section, is hereby validated.

NEW SECTION. Sec. 10. The transfer of South Puget Sound Community College to the twenty–fourth district shall be effective July 1, 1988. The current board of trustees of the twelfth district shall coordinate its actions or policy decisions which impact the South Puget Sound Community College with the director of the state system of community colleges. The state board for community college education shall take such action as necessary to ensure implementation of the creation of the new twenty–fourth

community college district in accordance with the provisions of sections 2 through 10 of this act on the effective date of this section.

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 2 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. The remainder of this act shall take effect July 1, 1988.

Passed the House February 8, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 78

[Substitute House Bill No. 1952]

CONSERVATION CORPS MEMBERS—UPPER AGE REQUIREMENT MAY BE WAIVED FOR RESIDENTS WITH SENSORY OR MENTAL HANDICAP

AN ACT Relating to the conservation corps; and amending RCW 43.220.070.

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

Sec. 1. Section 48, chapter 266, Laws of 1986 and RCW 43.220.070 are each 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. The upper age requirement may be waived for residents who have a sensory or mental handicap. 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 community development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 79

[House Bill No. 1616]

STATE TRUST LAND PURCHASE FOR PARKS AND RECREATION PURPOSES

AN ACT Relating to purchase of certain state trust lands for park and outdoor recreation purposes; amending RCW 43.51.270; and creating a new section.

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

Sec. 1. Section 1, chapter 210, Laws of 1971 ex. sess. as last amended by section 1, chapter 466, Laws of 1987 and RCW 43.51.270 are each amended to read as follows:

(1) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of the trust lands withdrawn as of August 9, 1971, pursuant to law for park purposes and included within the state parks listed in subsection (2) of this section: PROVIDED, That the sale shall be by contract with a pay-off period of not less than ten years, a price of eleven million twenty-four thousand seven hundred forty dollars or the fair market value, whichever is higher, for the land value, and interest not to exceed six percent. All fees collected by the commission beginning in the 1973-1975 biennium shall be applied to the purchase price of the trust lands listed in subsection (2) of this section; the acquisition of the property described in subsections (3) and (4) of this section, and all reasonable costs of acquisition, described in subsection (5) of this section; the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state

parks; the maintenance and operation of state parks; and any cost of collection pursuant to appropriations from the trust land purchase account created in RCW 43.51.280. The department of natural resources shall not receive any management fee pursuant to the sale of the trust lands listed in subsections (2) and (4) of this section. Timber on the trust lands which are the subject of subsections (2), (3), and (4) of this section shall continue to be under the management of the department of natural resources until such time as the legislature appropriates funds to the parks and recreation commission for purchase of said timber. The state parks which include trust lands which shall be the subject of this sale pursuant to this section are:

(2) (a) Penrose Point
(b) Kopachuck
(c) Long Beach
(d) Leadbetter Point
(e) Nason Creek
(f) South Whidbey
(g) Blake Island
(h) Rockport
(i) Mt. Pilchuck
(j) Ginkgo
(k) Lewis & Clark
(l) Rainbow Falls
(m) Bogachiel
(n) Sequim Bay
(o) Federation Forest
(p) Moran
(q) Camano Island
(r) Beacon Rock
(s) Bridle Trails
(t) Chief Kamiakin (formerly Kamiak Butte)
(u) Lake Wenatchee
(v) Fields Springs
(w) Sun Lakes
(x) Scenic Beach.

(3) The board of natural resources and the state parks and recreation commission shall negotiate a mutually acceptable transfer for adequate consideration to the state parks and recreation commission to be used for park and recreation purposes:

(a) All the state-owned Heart Lake property, including the timber therein, located in section 36, township 35 north, range 1E, W.M. in Skagit county;

(b) The Moran Park Additions, including the timber thereon, located in sections 16, 17, 19, 26, and 30, township 37 north, range 1W, W.M.;

(c) The Fort Ebey Addition (Partridge Point), including the timber thereon, located in section 36, township 32 north, range 1W, W.M. and section 6, township 31 north, range 1E, W.M.;

(d) The South Whidbey Addition (Classic U), including the timber thereon, located in section 29, township 30 north, range 2E, W.M.; and

(e) The Larrabee Addition, including the timber thereon, located in section 29, township 37 north, range 3E, W.M.

(4) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission of the lands and timber thereon identified in the joint study under section 4, chapter 163, Laws of 1985, and commonly referred to as:

(a) The Packwood trust property, Lewis county — located on the Cowlitz river at Packwood;

(b) The Iron Horse (Bullfrog) trust property — adjoining the John Wayne Pioneer Trail at Iron Horse State Park;

(c) The Soleduck Corridor trust property, Clallam county — on the Soleduck river at Sappho;

(d) The Lake Sammamish (Providence Heights) trust property, King county — adjacent to Hans Jensen Youth Camp area at Lake Sammamish State Park;

((~~(d)~~)) (e) The Kinney Point trust property, Jefferson county — on the extreme southern tip of Marrowstone Island;

(f) The Hartstene Island trust property, Mason county — near Fudge Point on the east side of Hartstene Island approximately two miles south of Jarrell Cove State Park;

(g) The Wallace Falls trust property addition, Snohomish county — located adjacent to Wallace Falls State Park;

(h) The Diamond Point trust property, Clallam county — on the Strait of Juan De Fuca;

(i) The Twin Falls trust property addition, King county — three parcels adjacent to the Twin Falls natural area, King county;

(j) The Skating Lake trust property, Pacific county — one and one-half miles north of Ocean Park and two miles south of Leadbetter State Park on the Long Beach Peninsula;

(k) The Kopachuck trust property addition, Pierce county — adjoining Kopachuck State Park;

(l) The Point Lawrence trust property, San Juan county — on the extreme east point of Orcas Island;

((~~(e)~~)) (m) The Huckleberry Island trust property, Skagit county — between Guemes Island and Saddlebag Island State Park;

((~~(f)~~)) (n) The Steamboat Rock (Osborn Bay) trust property, Grant county —southwest of Electric City on Osborn Bay;

(o) The Lord Hill trust property, Snohomish county — west of Monroe;

(p) The Larrabee trust property addition, Whatcom county — northeast of Larrabee State Park and Chuckanut Mountain;

((~~g~~))) (q) The Beacon Rock trust property, Skamania county — at Beacon Rock State Park;

(r) The Loomis Lake trust property, Pacific county — on the east shore of Loomis Lake and Lost Lake;

(s) The Lake Easton trust property addition, Kittitas county — one-quarter mile west of Lake Easton State Park near the town of Easton;

(t) The Fields Spring trust property addition, Asotin county — adjacent to the west and north boundaries of Fields Spring State Park;

(u) The Hoypus Hill trust property, Island county — south of the Hoypus Point natural forest area at Deception Pass State Park;

(v) The Cascade Island trust property, Skagit county — on the Cascade river about one and one-half miles east of Marblemount off of the South Cascade county road and ten and one-half miles east of Rockport State Park.

Payment for the property described in this subsection shall be derived from the trust land purchase account established pursuant to RCW 43.51-.280. Timber conservation and management practices provided for in RCW 43.51.045 and 43.51.395 shall govern the management of land and timber transferred under this subsection as of the effective date of the transfer.

(5) The funds from the trust land purchase account designated for the acquisition of the property described in subsections (3) and (4) of this section, and the reasonable costs of acquisition, shall be deposited in the park land trust revolving fund, hereby created, to be utilized by the department of natural resources for the exclusive purpose of acquiring real property as a replacement for the property described in subsections (3) and (4) of this section to maintain the land base of the ((~~common school trust lands~~)) several trusts and for the reimbursement of the department of natural resources for all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the property described in subsections (3) and (4) of this section. Disbursements from the park land trust revolving fund to acquire replacement property, and pay for all reasonable costs of acquisition, for the property described in subsections (3) and (4) of this section shall be on the authorization of the board of natural resources. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditures and payment of obligations from the fund. The state treasurer shall be custodian of the revolving fund.

The department of natural resources shall pay all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the property described in subsection (3) of this section from funds provided in the trust land purchase account. Any

agreement for the transfer of the property described in subsection (3) of this section shall not have an interest rate exceeding ten percent.

The parks and recreation commission is authorized to accept, receive, disburse, and administer grants or funds or gifts from any source including private individuals, public entities, and the federal government to supplement the funds from the trust land purchase account for the purchase of the property described in subsection (3) of this section.

NEW SECTION. Sec. 2. The legislature recognizes that the transfer of additional properties to the parks and recreation commission with reimbursement provided through the trust land purchase account will significantly impact the trusts for which these lands have been managed. In order to assure that the several trusts will be compensated within a reasonable period of time, and to assure timely transfer of these properties to the parks and recreation commission, the legislature directs the commission and the board of natural resources to jointly study a range of additional funding mechanisms to accelerate the reimbursement of the trusts. The results of this study, including a recommended course of action, shall be reported to the legislature no later than December 15, 1988.

Passed the House February 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 80

[Senate Bill No. 6136]

STATE PARK FEES—NONRESIDENT SURCHARGE REPEALED

AN ACT Relating to state park camping fees; and repealing RCW 43.51.057.

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

NEW SECTION. Sec. 1. Section 1, chapter 153, Laws of 1979 and RCW 43.51.057 are each repealed.

Passed the Senate January 27, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 81

[Engrossed House Bill No. 1492]

ELECTRICAL BOARDS REVISED—LAND BANK ADVISORY COMMITTEE ABOLISHED—EMERGENCY MANAGEMENT COUNCIL SIZE AND DUTIES REVISED, TRANSPORTATION OF HAZARDOUS MATERIALS—INSTITUTE OF FOREST RESOURCES ADVISORY COMMISSION ABOLISHED—ARTS COMMITTEE DIRECTOR TO BE SELECTED BY GOVERNOR

AN ACT Relating to state boards and commissions; amending RCW 19.28.005, 19.28-.015, 19.28.060, 19.28.065, 19.28.123, 19.28.125, 19.28.210, 19.28.260, 19.28.300, 19.28.310, 19.28.330, 19.28.350, 19.28.530, 19.28.540, 19.28.580, 19.28.620, 38.52.040, 46.48.170, 76.44-.020, and 43.46.045; repealing RCW 31.30.140, 46.48.190, and 76.44.022; and providing an effective date.

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

PART I
BOARD OF ELECTRICAL EXAMINERS AND ELECTRICAL ADVISORY BOARD

Sec. 1. Section 1, chapter 206, Laws of 1983 as amended by section 1, chapter 156, Laws of 1986 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~~))) (4) "Department" means the department of labor and industries.

(((~~6~~))) (5) "Director" means the director of the department or the director's designee.

(((~~7~~))) (6) "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~~))) (7) "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~~))) (8) "Equipment" means any equipment or apparatus that directly uses, conducts, or is operated by electricity but does not mean plug-in household appliances.

((~~(10)~~)) (9) "Journeyman electrician" means a person who has been issued a journeyman electrician certificate of competency by the department.

((~~(11)~~)) (10) "Specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department.

Sec. 2. Section 3, chapter 206, Laws of 1983 and RCW 19.28.015 are each amended to read as follows:

Disputes arising under RCW 19.28.010(2) regarding whether the city or town's electrical rules, regulations, or ordinances are equal to the rules adopted by the department shall be resolved by arbitration. The department shall appoint two members of the ((~~advisory~~)) board to serve on the arbitration panel, and the city or town shall appoint two persons to serve on the arbitration panel. These four persons shall choose a fifth person to serve. If the four persons cannot agree on a fifth person, the presiding judge of the superior court of the county in which the city or town is located shall choose a fifth person. A decision of the arbitration panel may be appealed to the superior court of the county in which the city or town is located within thirty days after the date the panel issues its final decision.

Sec. 3. Section 10, chapter 169, Laws of 1935 as last amended by section 3, chapter 156, Laws of 1986 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 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 5, chapter 207, Laws of 1963 as last amended by section 56, chapter 287, Laws of 1984 and RCW 19.28.065 are each amended to read as follows:

There is hereby created an electrical ((~~advisory~~)) board, consisting of ((~~seven~~)) ten members to be appointed by the governor with the advice of

the director of labor and industries as herein provided. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including, but not limited to standards of electrical installation, minimum inspection procedures, and the adoption of rules and regulations pertaining to the electrical inspection division: PROVIDED, HOWEVER, That no rules or regulations shall be amended or repealed until the electrical ((~~advisory~~)) board has first had an opportunity to consider any proposed amendments or repeals and had an opportunity to make recommendations to the director relative thereto. The members of the electrical ((~~advisory~~)) board shall be selected and appointed as follows: One member shall be an employee or officer of a corporation or public agency generating or distributing electric power; ((~~one~~)) three members shall be ((~~an employee or officer of a corporation or firm engaged in the business of making electrical installations~~)) licensed electrical contractors: PROVIDED, That one of these members may be a representative of a trade association in the electrical industry; one member shall be an employee, or officer, or representative of a corporation or firm engaged in the business of manufacturing or distributing electrical materials, equipment, or devices; one member shall be a person with knowledge of the electrical industry, not related to the electrical industry, to represent the public; ((~~one~~)) three members shall be ((~~a recognized~~)) certified electricians; and one member shall be a licensed professional electrical engineer qualified to do business in the state of Washington((~~; and one member shall be the state chief electrical inspector. Each of the members except the public member and the chief electrical inspector shall be appointed by the governor from among a list of individuals nominated by nonprofit organizations or associations representing individuals, corporations, or firms engaged in the business classification from which such member shall be selected~~)). The regular term of each member shall be four years: PROVIDED, HOWEVER, The original board shall be appointed on the effective date of this 1988 section for the following terms: The first term of the member representing a corporation or public agency generating or distributing electric power shall serve four years; ((~~the~~)) two members representing ((~~the installer of electrical equipment or appliances~~)) licensed electrical contractors shall serve three years; the member representing a manufacturer or distributor of electrical equipment or devices shall serve three years; the member representing the public and one member representing licensed electrical contractors shall serve two years; the three members selected as ((~~the recognized~~)) certified electricians shall serve for ((~~two years~~)) terms of one, two, and three years, respectively; the member selected as the licensed professional electrical engineer shall serve for one year. In appointing the original board, the governor shall give due consideration to the value of continuity in membership from predecessor boards. Thereafter, the governor shall appoint or reappoint board members for terms of four years and to fill vacancies created by

the completion of the terms of the original members. The governor shall also fill vacancies caused by death, resignation, or otherwise for the unexpired term of such members by appointing their successors from the same business classification. The same procedure shall be followed in making such subsequent appointments as is provided for the original appointments. The board, at this first meeting shall elect one of its members to serve as chairman. Any person acting as the chief electrical inspector shall serve as secretary of the board during his tenure as chief state inspector. Meetings of the board shall be ((~~called at the discretion of the director of labor and industries~~)) held at least quarterly in accordance with a schedule established by the board. Each member of the board shall receive compensation 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 which shall be paid out of the electrical license fund, upon vouchers approved by the director of labor and industries.

Sec. 5. Section 2, chapter 188, Laws of 1974 ex. sess. as last amended by section 6, chapter 156, Laws of 1986 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~~)) the 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~~)) the 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. 6. Section 4, chapter 188, Laws of 1974 ex. sess. as last amended by section 7, chapter 156, Laws of 1986 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 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. 7. Section 8, chapter 169, Laws of 1935 as last amended by section 7, chapter 206, Laws of 1983 and RCW 19.28.210 are each amended to read as follows:

The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies. Nothing contained in this chapter may be construed as providing any authority for any subdivision of government to adopt by ordinance any provisions contained or provided for in this chapter except those pertaining to cities and towns pursuant to RCW 19.28.010(2). Upon request, electrical inspections will be made by the department within forty-eight hours, excluding holidays, Saturdays, and Sundays. If, upon written request, the electrical inspector fails to make an electrical inspection within twenty-four hours, the serving utility may immediately connect electrical power to the installation if the necessary electrical work permit is displayed. Whenever the installation of any wiring, device, appliance, or equipment is not in accordance with this chapter, or is in such a condition as to be dangerous to life or property, the person, firm, partnership, corporation, or other entity owning, using, or operating it shall be notified by the department and shall within fifteen days, or such further reasonable time as may upon request be granted, make such repairs and changes as are required to remove the danger to life or property and to make it conform to this chapter. The director, through the inspector, is hereby empowered to disconnect or order the discontinuance of electrical service to conductors or equipment that are found to be in a dangerous or unsafe condition and not in accordance with this chapter. Upon making a disconnection the inspector shall attach a notice stating that the conductors have been found dangerous to life or property and are not in accordance with this chapter. It is unlawful for any person to reconnect such defective conductors or equipment without the approval of the department, and until the conductors and equipment have been placed in a safe and secure condition, and in a condition that complies with this chapter. The director, through the electrical inspector, has the right during reasonable hours to enter into and upon any building or premises in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of new construction or altered electrical wiring, electrical devices, equipment, or material contained in or on the buildings or premises. No electrical wiring or equipment subject to this chapter may be concealed until it has been approved by the inspector making the inspection. Persons, firms, partnerships, corporations, or other entities making electrical installations shall obtain inspection and approval from an authorized representative of the department as required by this chapter before requesting the electric utility to connect to the installations. Electric utilities may connect to the installations if approval is clearly indicated by certification of the electrical work permit required to be affixed to each installation or by

equivalent means, except that increased or relocated services may be reconnected immediately at the discretion of the utility before approval if an electrical work permit is displayed. The permits shall be furnished upon payment of the fee to the department. The director, subject to the recommendations and approval of the ((~~advisory~~)) board, shall set by rule a schedule of license and electrical work permit fees that will cover the costs of administration and enforcement of this chapter. The rules shall be adopted in accordance with the administrative procedure act, chapter 34.04 RCW. No fee may be charged for plug-in mobile homes, recreational vehicles, or portable appliances.

Sec. 8. Section 2, chapter 169, Laws of 1935 as amended by section 9, chapter 206, Laws of 1983 and RCW 19.28.260 are each amended to read as follows:

It is unlawful for any person, firm, partnership, corporation, or other entity to install or maintain any electrical wiring, appliances, devices, or equipment not in accordance with this chapter. In cases where the interpretation and application of the installation or maintenance standards prescribed in this chapter is in dispute or in doubt, the ((~~advisory~~)) board shall, upon application of any interested person, firm, partnership, corporation, or other entity, determine the methods of installation or maintenance or the materials, devices, appliances, or equipment to be used in the particular case submitted for its decision.

Sec. 9. Section 13, chapter 169, Laws of 1935 as amended by section 10, chapter 206, Laws of 1983 and RCW 19.28.300 are each amended to read as follows:

Any person, firm, partnership, corporation, or other entity desiring a decision of the ((~~advisory~~)) board pursuant to RCW 19.28.260 shall, in writing, notify the director of such desire and shall accompany the notice with a certified check payable to the department in the sum of two hundred dollars. The notice shall specify the ruling or interpretation desired and the contention of the person, firm, partnership, corporation, or other entity as to the proper interpretation or application on the question on which a decision is desired. If the ((~~advisory~~)) board determines that the contention of the applicant for a decision was proper, the two hundred dollars shall be returned to the applicant; otherwise it shall be used in paying the expenses and per diem of the members of the ((~~advisory~~)) board in connection with the matter. Any portion of the two hundred dollars not used in paying the per diem and expenses of the board in the case shall be paid into the electrical license fund.

Sec. 10. Section 7, chapter 169, Laws of 1935 as last amended by section 10, chapter 156, Laws of 1986 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 18, chapter 169, Laws of 1935 as amended by section 1, chapter 67, Laws of 1979 ex. sess. and RCW 19.28.330 are each amended to read as follows:

All sums received from licenses, permit fees, or other sources, herein shall be paid to the state treasurer and placed in a special fund designated as the "electrical license fund," and by him paid out upon vouchers duly and regularly issued therefor and approved by the director of labor and industries or the director's designee following determination by the board ((~~of electrical examiners~~)) that the sums are necessary to accomplish the intent of chapter 19.28 RCW. The treasurer shall keep an accurate record of payments into, or receipts of, said fund, and of all disbursements therefrom.

Sec. 12. Section 14, chapter 169, Laws of 1935 as last amended by section 11, chapter 156, Laws of 1986 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~~)) 19.28.360 shall be assessed a penalty of not less than fifty dollars 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~~)) 19.28.360. 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~~)) 19.28.360 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. 13. Section 4, chapter 30, Laws of 1980 as amended by section 14, chapter 206, Laws of 1983 and RCW 19.28.530 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the journeyman or specialty certificate of competency. To be eligible to take the examination for a journeyman certificate the applicant must have worked in the electrical construction trade for a minimum of four years employed full time, of which two years shall be in industrial or commercial electrical installation under the supervision of a journeyman electrician certified under this chapter and not more than a total of two years in all specialties under the supervision of a journeyman electrician certified under this chapter or an appropriate specialty electrician certified under this chapter or have successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade. To be eligible to take the examination to become a specialty electrician the applicant shall have worked in that specialty of the electrical construction trade, under the supervision of a journeyman electrician certified under this chapter or an appropriate specialty electrician certified under this chapter, for a minimum of two years employed full time, or have successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade. Before January 1,

1984, applicants for nonresidential maintenance specialty licenses are eligible to become nonresidential maintenance specialists upon certification to the department that they have the equivalent of two years full-time experience in that specialty field. Persons applying before January 1, 1984, for a journeyman certificate are eligible to take the examination to become journeymen until July 1, 1984, upon certification to the department that they have the equivalent of five years full-time experience in nonresidential maintenance, of which two years shall be in industrial electrical installation. Any applicant who has successfully completed a two-year technical school program in the electrical construction trade in a school that is approved by the commission for vocational education may substitute up to two years of the technical school program for two years of work experience under a journeyman electrician. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to take the examination for the certificate of competency. Any applicant who is a graduate of a trade school program in the electrical construction trade that was established during 1946 is eligible to take the examination for the certificate of competency. No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board ((~~of electrical examiners~~)). Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

Sec. 14. Section 5, chapter 30, Laws of 1980 as last amended by section 13, chapter 156, Laws of 1986 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 speciality electrician certification examinations.

Sec. 15. Section 9, chapter 30, Laws of 1980 as amended by section 18, chapter 206, Laws of 1983 and RCW 19.28.580 are each amended to read as follows:

(1) The department may revoke any certificate of competency upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder thereof is judged to be incompetent to work in the electrical construction trade as a journeyman electrician or specialty electrician;

(c) The holder thereof has violated any of the provisions of RCW 19-.28.510 through 19.28.620 or any rule adopted under this chapter.

(2) Before any certificate of competency shall be revoked, the holder shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing before the board ((~~of electrical examiners~~)). At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with chapter 34.04 RCW. The board shall render its decision based upon the testimony and evidence presented, and shall notify the parties immediately upon reaching its decision. A majority of the board shall be necessary to render a decision.

Sec. 16. Section 13, chapter 30, Laws of 1980 as last amended by section 17, chapter 156, Laws of 1986 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 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 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 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.

PART II
LAND BANK ADVISORY COMMITTEE

NEW SECTION. Sec. 17. Section 14, chapter 284, Laws of 1986 and RCW 31.30.140 are each repealed, effective June 30, 1988.

PART III
TRANSPORTATION OF HAZARDOUS MATERIALS

Sec. 18. Section 5, chapter 178, Laws of 1951 as last amended by section 5, chapter 38, Laws of 1984 and RCW 38.52.040 are each amended to read as follows:

There is hereby created the emergency management council (hereinafter called the council), to consist of not less than seven nor more than ((~~fifteen~~)) seventeen members who shall be appointed by the governor. The council shall advise the governor and the director on all matters pertaining to emergency management and shall advise the chief of the Washington state patrol on safety in the transportation of hazardous materials described in RCW 46.48.170. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, private industry, and local fire chiefs. The representatives of private industry shall include persons knowledgeable in the handling and transportation of hazardous materials. The council members shall elect a chairman from within the council membership. The

members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 19. Section 46.48.170, chapter 12, Laws of 1961 as amended by section 1, chapter 20, Laws of 1980 and RCW 46.48.170 are each amended to read as follows:

The Washington state patrol acting by and through the chief of the Washington state patrol shall have the authority to adopt and enforce the regulations promulgated by the United States department of transportation, Title 49 CFR parts 100 through 199, transportation of hazardous materials, as these regulations apply to motor carriers. "Motor carrier" means any person engaged in the transportation of passengers or property operating interstate and intrastate upon the public highways of this state, except farmers. The chief of the Washington state patrol shall confer with the ((~~committee created by RCW 46.48.190~~)) emergency management council under RCW 38.52.040 and may make rules and regulations pertaining thereto, sufficient to protect persons and property from unreasonable risk of harm or damage. The chief of the Washington state patrol ((~~and the committee~~)) shall establish such additional rules not inconsistent with Title 49 CFR parts 100 through 199, transportation of hazardous materials, which for compelling reasons make necessary the reduction of risk associated with the transportation of hazardous materials. No such rules may lessen a standard of care; however, the chief of the Washington state patrol may, after conferring with the ((~~committee~~)) emergency management council, establish a rule imposing a more stringent standard of care. The chief of the Washington state patrol shall appoint the necessary qualified personnel to carry out the provisions of RCW 46.48.170 through 46.48.190.

Sec. 20. Section 46.48.190, chapter 12, Laws of 1961, section 4, chapter 20, Laws of 1980 and RCW 46.48.190 are each repealed.

PART IV
INSTITUTE OF FOREST RESOURCES ADVISORY COMMISSION

Sec. 21. Section 2, chapter 177, Laws of 1947 as last amended by section 2, chapter 50, Laws of 1979 and RCW 76.44.020 are each amended to read as follows:

The institute of forest resources shall be administered by the dean of the college of forest resources of the University of Washington who shall also be the director of the institute ((~~with the advice of a nonsalaried commission which shall function in a role of review, oversight, and policy formulation for the institute and which shall annually report their findings and recommendations to the president for consideration~~)).

NEW SECTION. Sec. 22. Section 3, chapter 50, Laws of 1979 and RCW 76.44.022 are each repealed.

PART V
ARTS COMMISSION

Sec. 23. Section 2, chapter 125, Laws of 1967 ex. sess. as amended by section 5, chapter 317, Laws of 1985 and RCW 43.46.045 are each amended to read as follows:

The ((~~commission may~~)) governor shall select ((~~and employ~~)) a full time executive director((~~, who~~)) from a list of three names submitted by the commission by September 1, 1988, and anytime thereafter that a vacancy occurs. The executive director shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the executive director may also employ such clerical and other assistants as may be reasonably required to carry out commission functions. The executive director shall serve at the pleasure of the governor.

Passed the House March 7, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 82

[Substitute Senate Bill No. 6128]

PARK AND RECREATION SERVICE AREAS—AUTHORITY ENLARGED

AN ACT Relating to park and recreation service areas; amending RCW 36.68.400, 36.68.541, 36.68.550, 36.68.570, 36.68.580, 36.68.600, and 67.20.010; and adding a new section to chapter 36.68 RCW.

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

Sec. 1. Section 1, chapter 218, Laws of 1963 as last amended by section 1, chapter 253, Laws of 1985 and RCW 36.68.400 are each amended to read as follows:

Any county shall have the power to create park and recreation service areas for the purpose of financing ((~~the acquisition, construction, improvement, maintenance or operation of~~)), acquiring, constructing, improving, maintaining, or operating any park, senior citizen activities centers, zoos, aquariums, and recreational facilities as defined in RCW 36.69.010 which shall be owned or leased by the county and administered as other county parks or shall be owned or leased and administered by a city or town or shall be owned or leased and administered by the park and recreation service area. A park and recreation service area may purchase athletic equipment and supplies, and provide for the upkeep of park buildings, grounds and facilities, and provide custodial, recreational and park program personnel at any park or recreational facility owned or leased by the service area or a county, city, or town. A park and recreation service area shall be a quasi-municipal corporation, an independent taxing "authority" within the

meaning of section 1, Article 7 of the Constitution, and a "taxing district" within the meaning of section 2, Article 7 of the Constitution.

A park and recreation service area shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to accept and expend or use gifts, grants, and donations, and to sue and be sued as well as all other powers that may now or hereafter be specifically conferred by statute.

The members of the county legislative authority ((~~shall be~~)), acting ex officio and independently, shall compose the governing body of any park and recreation service area which is created within the county: PROVIDED, That where a park and recreation service area includes an incorporated city or town within the county, the park and recreation service area may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The voters of a park and recreation service area shall be all registered voters residing within the service area.

A multicounty park and recreation service area shall be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW.

Sec. 2. Section 12, chapter 210, Laws of 1981 and RCW 36.68.541 are each amended to read as follows:

Park and recreation service areas may hire employees and may fund all or a portion of the salaries and benefits of county park employees who perform work on county park and recreation facilities within the service area and may fund all or a portion of the salaries and benefits of city or town park employees who perform work on city or town park and recreation facilities within the service area.

Sec. 3. Section 16, chapter 218, Laws of 1963 as amended by section 13, chapter 210, Laws of 1981 and RCW 36.68.550 are each amended to read as follows:

A park and recreation service area may impose and collect use fees or other direct charges on facilities financed, acquired, and operated by the park and recreation service area. The county legislative authority may allow admission fees or other direct charges which are paid by persons using county park facilities located within a park and recreation service area to be transferred to a park and recreation service area. Such direct charges to users may be made for the use of or admission to swimming pools, field houses, tennis and handball courts, bathhouses, swimming beaches, boat launching, storage or moorage facilities, ski lifts, picnic areas and other similar recreation facilities, and for parking lots used in conjunction with such facilities. All funds collected under the provisions of this section shall be deposited to the fund of the service area established in the office of the county treasurer, to be disbursed under the service area budget as approved by the governing body of the park and recreation service area.

Sec. 4. Section 18, chapter 218, Laws of 1963 as amended by section 15, chapter 210, Laws of 1981 and RCW 36.68.570 are each amended to read as follows:

A park and recreation service area may reimburse the county for any charge incurred by the county current expense fund which is properly an expense of the service area, including reasonable administrative costs incurred by the offices of county treasurer and the county auditor in providing accounting, clerical or other services for the benefit of the service area. The county legislative authority ((~~shall~~)) may, where a county purchasing department has been established, provide for the purchase of all supplies and equipment for a park and recreation service area through the department. The park and recreation service area may contract with the county to administer purchasing.

Sec. 5. Section 19, chapter 218, Laws of 1963 as amended by section 16, chapter 210, Laws of 1981 and RCW 36.68.580 are each amended to read as follows:

Any park facility or park acquired, improved or otherwise financed in whole or in part by park and recreation service area funds shall be owned by the park service area and/or the county and/or the city or town in which the park or facility is located. The county may make expenditures from its current expense funds budgeted for park purposes for the maintenance, operation or capital improvement of any county park or park facility acquired, improved, or otherwise financed in whole or in part by park and recreation service area funds. Similarly, a city or town may make expenditures for any city or town park or park facility acquired, improved, or otherwise financed in whole or in part by park and recreation service area funds.

Sec. 6. Section 21, chapter 218, Laws of 1963 as amended by section 17, chapter 210, Laws of 1981 and RCW 36.68.600 are each amended to read as follows:

A ((~~county~~)) park and recreation service area may exercise any of the powers enumerated in chapter 67.20 RCW with respect to any park and recreation facility financed in whole or part from park and recreation service area funds.

Sec. 7. Section 1, chapter 107, Laws of 1921 as amended by section 1, chapter 97, Laws of 1949 and RCW 67.20.010 are each amended to read as follows:

Any city in this state acting through its city council, or its board of park commissioners when authorized by charter or ordinance, any separately organized park district acting through its board of park commissioners or other governing officers, any school district acting through its board of school directors, any county acting through its board of county commissioners, any park and recreation service area acting through its governing body, and any town acting through its ((~~city~~)) town council shall have

power, acting independently or in conjunction with the United States, the state of Washington, any county, city, park district, school district or town or any number of such public organizations to acquire any land within this state for park, playground, gymnasiums, swimming pools, field houses and other recreational facilities, bathing beach or public camp purposes and roads leading from said parks, playgrounds, gymnasiums, swimming pools, field houses and other recreational facilities, bathing beaches, or public camps to nearby highways by donation, purchase or condemnation, and to build, construct, care for, control, supervise, improve, operate and maintain parks, playgrounds, gymnasiums, swimming pools, field houses and other recreational facilities, bathing beaches, roads and public camps upon any such land, including the power to enact and enforce such police regulations not inconsistent with the constitution and laws of the state of Washington, as are deemed necessary for the government and control of the same. The power of eminent domain herein granted shall not extend to any land outside the territorial limits of the governmental unit or units exercising said power.

NEW SECTION. Sec. 8. A new section is added to chapter 36.68 RCW to read as follows:

A park and recreation service area may exercise the power of eminent domain to obtain property for its authorized purposes in a manner consistent with the power of eminent domain of the county in which the park and recreation service area is located.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 83

[Senate Bill No. 6243]

STRIKES OR LOCKOUTS—UNEMPLOYMENT COMPENSATION BENEFITS ALTERED—STUDY AND ANALYSIS OF CLAIMANTS

AN ACT Relating to unemployment compensation during labor disputes; amending RCW 50.20.090; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 77, chapter 35, Laws of 1945 as last amended by section 1, chapter 2, Laws of 1987 and RCW 50.20.090 are each amended to read as follows:

(1) An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that the individual's unemployment is:

(a) Due to a ((~~stoppage of work which exists because of a labor dispute~~)) strike at the factory, establishment, or other premises at which the individual is or was last employed((~~: PROVIDED, That this section shall not apply if it is shown to the satisfaction of the commissioner that:~~

~~(1) (a) The individual is unemployed due to a lockout by his or her employer, except for lockouts by employers who are members of a multi-employer bargaining unit after one member of the multi-employer bargaining unit has been struck by its employees as a result of the multi-employer bargaining process. The recognized or certified collective bargaining agent must have notified the employer that the employees are willing to return to work, pending the ratification of a new collective bargaining agreement, under the terms and conditions contained in the employer's last contract offer made prior to the start of the lockout unless the employer's last offer amounts to a substantial deterioration of the terms and conditions of employment which existed prior to the termination of the last collective bargaining agreement between the employer and the individual's recognized or certified collective bargaining agent; and~~

~~(b) The individual has been locked out for four or more weeks.~~

~~Benefits shall be payable to an otherwise eligible individual beginning with the fourth week in which the individual is unemployed due to a lockout. This subsection (1) shall have no effect on and after December 27, 1987~~)); or

(b) Due to a lockout by his or her employer who is a member of a multi-employer bargaining unit and who has locked out the employees at the factory, establishment, or other premises at which the individual is or was last employed after one member of the multi-employer bargaining unit has been struck by its employees as a result of the multi-employer bargaining process.

(2) Subsection (1) of this section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in or financing or directly interested in the ((~~labor dispute which caused the stoppage of work~~)) strike or lockout that caused the individual's unemployment; and

(b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the ((~~stoppage~~)) strike or lockout, there were members employed at the premises at which the ((~~stoppage~~)) strike or lockout occurs, any of whom are participating in or financing or directly interested in the ((~~dispute~~)) strike or lockout: PROVIDED, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subdivision, be deemed to be a separate factory, establishment, or other premises.

(3) Any disqualification imposed under this section shall end when the strike or lockout is terminated.

NEW SECTION. Sec. 2. (1) The department of employment security shall study and analyze the impact of section 1 of this act on the number of claimants receiving unemployment insurance benefits and the total amount of benefits paid, and on the type, frequency, duration, and outcome of labor disputes. In performing the study the department shall specifically address the impact of section 1(1)(b) of this act on the above subjects.

(2) In performing its duties under this section the department shall periodically convene meetings with representatives of labor and management, including but not limited to representatives of the following: A general business association; an organization broadly representing organized labor; the construction industry; construction industry organized labor; the trade industry; trade industry organized labor; the manufacturing industry; manufacturing industry organized labor; the service industry; service industry organized labor; the transportation industry; transportation industry organized labor; the communication industry; and communication industry organized labor.

(3) For the purpose of studying and analyzing the impact of section 1(1)(b) of this act the department shall periodically convene, in addition to those meetings specified in subsection (2) of this section, meetings with representatives of labor and management from industries with multi-employer bargaining units, including but not limited to representatives from a general business association; an organization broadly representing organized labor; the retail trade industry; and retail trade industry organized labor.

(4) The department shall report its findings to the governor, the senate economic development and labor committee, and the house of representatives commerce and labor committee, or the appropriate successor committees, by the commencement of the 1990 regular session of the legislature.

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 on the Sunday following the day on which the governor signs this act.

Passed the Senate March 7, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 84

[Substitute Senate Bill No. 6548]

FEDERAL TARGETED JOBS TAX CREDIT PROGRAM—ADMINISTRATION COST TO BE BORNE BY EMPLOYERS

AN ACT Relating to assistance to employers receiving a federal tax credit; adding a new section to chapter 50.16 RCW; creating new sections; 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. The legislature finds that:

(1) The employment security department through the targeted jobs tax credit program has the responsibility to issue federal tax credit certifications to Washington state employers. The tax credit certification allows the employer to claim a credit against federal income tax for wages paid during the first year to employees who qualify for the program.

(2) To the extent that funding is available, the department, through the federal targeted jobs tax credit program, provides service to employers in the form of technical assistance and training, program marketing, monitoring, and maintenance of records and processing of documents that may result in a certification which allows employers to claim a federal tax credit.

(3) The United States Congress through the Tax Reform Act of 1986 reauthorized the targeted jobs tax credit but did not include funds to cover the costs of processing employer requests for federal tax credit certifications.

(4) The state has a vital interest in the economic benefits employers realize from the targeted jobs tax credit because the economic competitiveness of Washington state is enhanced as tax credit savings are reinvested in the state's economy.

(5) The departments of corrections, social and health services, and veterans affairs, and the superintendent of public instruction, along with employment security and other state service providers, utilize the targeted jobs tax credit program as an incentive for employers to hire hard-to-place clients.

(6) Economically disadvantaged youth, Vietnam-era veterans, ex-felons, and vocational rehabilitation, supplemental security income, general assistance and AFDC recipients have an especially difficult time in obtaining employment.

NEW SECTION. Sec. 2. A new section is added to chapter 50.16 RCW to read as follows:

The cost of administering the federal targeted jobs tax credit program shall be fully borne by the employers requesting the credits. The commissioner shall establish the amount of the processing fee and procedures for collecting the fee. The commissioner shall establish the processing fee at a sufficient level to defray the costs of administering the federal targeted jobs

tax credit program. The fee shall be established by the commissioner by rule. However, if federal funding is provided to finance such services, the commissioner shall revise or eliminate this fee based on the amount of federal funding received. Fees received for processing shall be deposited in a special account in the unemployment compensation administration fund.

NEW SECTION. Sec. 3. If any part of this act shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such 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.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. There is appropriated from the unemployment compensation administration fund to the employment security department for the biennium ending June 30, 1989, the sum of one million seven hundred six thousand eighty-nine dollars, or so much thereof as may be necessary, for administration by the state of the targeted jobs tax credit program.

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 March 1, 1988.

Passed the Senate February 15, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 85

[Substitute Senate Bill No. 5943]

SMALL CLAIMS COURT JURISDICTIONAL AMOUNT INCREASED—APPEALS REVISED—MODEL BROCHURE TO BE DISTRIBUTED

AN ACT Relating to the small claims department of the district court; amending RCW 12.40.010 and 12.40.120; and adding a new section to chapter 12.40 RCW.

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

Sec. 1. Section 1, chapter 187, Laws of 1919 as last amended by section 57, chapter 258, Laws of 1984 and RCW 12.40.010 are each amended to read as follows:

In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court". The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed ((~~one~~)) two thousand dollars.

Sec. 2. Section 4, chapter 83, Laws of 1970 ex. sess. as amended by section 69, chapter 258, Laws of 1984 and RCW 12.40.120 are each amended to read as follows:

No appeal shall be permitted from a judgment of the small claims department of the district court where the amount claimed was less than one hundred dollars ((~~nor~~)). No appeal shall ((~~any appeal~~)) be permitted by a party who requested the exercise of jurisdiction by the small claims department where the amount claimed was less than one thousand dollars.

NEW SECTION. Sec. 3. A new section is added to chapter 12.40 RCW to read as follows:

The administrator for the courts and the magistrates association shall prepare a model small claims informational brochure and distribute the model brochure to all small claims departments in the state. This brochure may be modified as necessary by each small claims department and shall be made available to all parties in any small claims action.

Passed the Senate February 9, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 86

[Engrossed Senate Bill No. 6143]

REAL ESTATE CONTRACT FORFEITURE ACT—TECHNICAL REVISIONS

AN ACT Relating to technical revisions to the real estate contract forfeiture act; amending RCW 61.30.010, 61.30.020, 61.30.030, 61.30.040, 61.30.050, 61.30.060, 61.30.070, 61.30.080, 61.30.090, 61.30.100, 61.30.110, 61.30.120, 61.30.130, 61.30.140, and 61.30.150; and creating a new section.

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

Sec. 1. Section 1, chapter 237, Laws of 1985 and RCW 61.30.010 are each amended to read as follows:

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

(1) "Contract" or "real estate contract" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for payment of the purchase price. "Contract" or "real estate contract" does not include earnest money agreements and options to purchase.

(2) "Cure the default" or "cure" means to perform the obligations under the contract which are described in the notice of intent to forfeit and which are in default, to pay the costs and attorneys' fees prescribed in the contract, and, subject to RCW 61.30.090(1), to make all payments of money required of the purchaser by the contract which first become due after the notice of intent to forfeit is given and are due when cure is tendered.

(3) "Declaration of forfeiture" means the notice described in RCW 61.30.070(2).

(4) "Forfeit" or "forfeiture" means to cancel the purchaser's rights under a real estate contract and to terminate all right, title, and interest in the property of the purchaser and((~~, to the extent provided in this chapter,~~)) of persons claiming by or through the purchaser, all to the extent provided in this chapter, because of a breach of one or more of the purchaser's obligations under the contract. A judicial foreclosure of a real estate contract as a mortgage shall not be considered a forfeiture under this chapter.

(5) "Notice of intent to forfeit" means the notice described in RCW 61.30.070(1).

(6) "Property" means that portion of the real property which is the subject of a real estate contract, legal title to which has not been conveyed to the purchaser.

(7) "Purchaser" means the person denominated in a real estate contract as the purchaser of the property or an interest therein ((~~in a real estate contract~~)) or, if applicable, the purchaser's ((~~personal representative or~~)) successors or assigns in interest to all or any part of the property, whether by voluntary or involuntary transfer or transfer by operation of law. If the purchaser's interest in the property is subject to a proceeding in probate, a receivership, a guardianship, or a proceeding under the federal bankruptcy laws, "purchaser" means the personal representative, the receiver, the guardian, the trustee in bankruptcy, or the debtor in possession, as applicable. However, "purchaser" does not include an assignee or any other person whose only interest or claim is in the nature of a lien or other security interest.

(8) "Required notices" means the notice of intent to forfeit and the declaration of forfeiture.

(9) "Seller" means the person denominated in a real estate contract as the seller of the property or an interest therein ((~~in a real estate contract~~)) or, if applicable, the seller's ((~~personal representative or~~)) successors or assigns in interest to all or any part of the property or the contract, whether by voluntary or involuntary transfer or transfer by operation of law. If the seller's interest in the property is subject to a proceeding in probate, a receivership, a guardianship, or a proceeding under the federal bankruptcy laws, "seller" means the personal representative, the receiver, the guardian, the trustee in bankruptcy, or the debtor in possession, as applicable. However, "seller" does not include an assignee or any other person whose only

interest or claim is in the nature of a lien or other security interest and does not include an assignee who has not been conveyed legal title to any portion of the property.

(10) "Time for cure" means the time provided in RCW 61.30.070(1)(e)((~~, or as provided by court order under RCW 61.30.110,~~)) as it may be extended as provided in this chapter or any longer period agreed to by the seller.

Sec. 2. Section 2, chapter 237, Laws of 1985 and RCW 61.30.020 are each amended to read as follows:

(1) A purchaser's rights under a real estate contract shall not be forfeited except as provided in this chapter. Forfeiture shall be accomplished by giving and recording the required notices as specified in this chapter. This chapter shall not be construed as prohibiting or limiting any remedy which is not governed or restricted by this chapter and which is otherwise available to the seller or the purchaser. At the seller's option, a real estate contract may be foreclosed in the manner and subject to the law applicable to the foreclosure of a mortgage in this state.

(2) The seller's commencement of an action to foreclose the contract as a mortgage shall not constitute an election of remedies so as to bar the seller from forfeiting the contract under this chapter for the same or different breach. Similarly, the seller's commencement of a forfeiture under this chapter shall not constitute an election of remedies so as to bar the seller from foreclosing the contract as a mortgage. However, the seller shall not maintain concurrently an action to foreclose the contract and a forfeiture under this chapter whether for the same or different breaches. If, after giving or recording a notice of intent to forfeit, the seller elects to foreclose the contract as a mortgage, the seller shall record a notice cancelling the notice of intent to forfeit which refers to the notice of intent by its recording number. Not later than ten days after the notice of cancellation is recorded, the seller shall mail or serve copies of the notice of cancellation to each person who was mailed or served the notice of intent to forfeit, and shall post it in a conspicuous place on the property if the notice of intent was posted. The seller need not publish the notice of cancellation.

Sec. 3. Section 3, chapter 237, Laws of 1985 and RCW 61.30.030 are each amended to read as follows:

It shall be a condition to forfeiture of a real estate contract that:

(1) The contract being forfeited, or a memorandum thereof, is recorded in each county in which any of the property is located;

(2) A breach has occurred in one or more of the purchaser's obligations under the contract and the contract provides that as a result of such breach the seller is entitled to forfeit the contract; and

(3) Except for petitions for the appointment of a receiver, no arbitration or judicial action is pending on a claim made by the seller against the purchaser on any obligation secured by the contract.

Sec. 4. Section 4, chapter 237, Laws of 1985 and RCW 61.30.040 are each amended to read as follows:

(1) The required notices shall be given to each purchaser last known to the seller or the seller's agent or attorney giving the notice and to each person who, at the time the notice of intent to forfeit is recorded, is the last holder of record of ((~~the~~)) a purchaser's interest. Failure to comply with this subsection in any material respect shall render any purported forfeiture based upon the required notices void.

(2) The required notices shall also be given to each of the following persons whose interest the seller desires to forfeit if the default is not cured:

(a) The holders and claimants of record at the time the notice of intent to forfeit is recorded of ((~~security interests in or liens against the purchaser's interest in the contract or the purchaser's interest in the property or any portion of either;~~

~~(b) The holders of record at the time the notice of intent to forfeit is recorded of the seller's or the purchaser's interest in any real estate contract affecting the property which is subordinate to the contract being forfeited~~)) any interests in or liens upon all or any portion of the property derived through the purchaser or which are otherwise subordinate to the seller's interest in the property; and

((~~(c)~~)) (b) All ((~~other~~)) persons occupying the property at the time the notice of intent to forfeit is recorded and whose identities ((~~may be ascertained by reasonable inquiry~~)) are reasonably discoverable by the seller.

Any forfeiture based upon the required notices shall be void as to each person described in this subsection (2) to whom the notices are not given in accordance with this chapter in any material respect.

(3) The required notices shall also be given to ((~~all~~)) each person((s)) who at the time the notice of intent to forfeit is recorded ((~~have~~)) has recorded in each county in which any of the property is located a request to receive the required notices, which request (a) identifies the contract being forfeited by reference to its date, the original parties thereto, ((~~the property description, and the recording number of the contract or memorandum thereof~~)) and a legal description of the property; (b) contains the name and address for notice of the person making the request; and (c) is executed and acknowledged by the requesting person.

(4) Except as otherwise provided in the contract or other agreement with the seller and except as otherwise provided in this section, the seller shall not be required to give any required notice to any person whose interest in the ((~~purchaser's rights under the contract or the~~)) property ((~~or any portion of either~~)) is not of record or if such interest is first acquired after the time the notice of intent to forfeit is recorded. Subject to subsection (5) of this section, all such persons hold their interest subject to the potential forfeiture described in the recorded notice of intent to forfeit and shall be

bound by any forfeiture made pursuant thereto as permitted in this chapter as if the required notices were given to them.

(5) Before the commencement of the time for cure, the notice of intent to forfeit shall be recorded in each county in which any of the property is located. ((~~If, not later than one year after the time for cure stated in a recorded notice of intent to forfeit or any recorded extension thereof, no declaration of forfeiture based upon the recorded notice of intent to forfeit has been recorded, no lis pendens has been filed incident to an action under this chapter, and no extension of the time for cure executed by the seller and the purchaser has been recorded, the notice of intent to forfeit shall not be effective for any purpose under this chapter nor shall it impart any constructive or other notice to third persons acquiring an interest in the purchaser's interest in the contract or the property or any portion of either~~)) The notice of intent to forfeit shall become ineffective for all purposes one year after the expiration of the time for cure stated in such notice or in any recorded extension thereof executed by the seller or the seller's agent or attorney unless, prior to the end of that year, the declaration of forfeiture based on such notice or a lis pendens incident to an action under this chapter is recorded. The time for cure may not be extended in increments of more than one year each, and extensions stated to be for more than one year or for an unstated or indefinite period shall be deemed to be for one year for the purposes of this subsection. Recording a lis pendens when a notice of intent to forfeit is effective shall cause such notice to continue in effect until the later of one year after the expiration of the time for cure or thirty days after final disposition of the action evidenced by the lis pendens.

(6) The declaration of forfeiture shall be recorded in each county in which any of the property is located after the time for cure has expired without the default having been cured.

Sec. 5. Section 5, chapter 237, Laws of 1985 and RCW 61.30.050 are each amended to read as follows:

(1) The required notices shall be given in writing. The notice of intent to forfeit shall be signed by the seller or by the seller's agent or attorney. The declaration of forfeiture shall be signed and sworn to by the seller. The seller may execute the declaration of forfeiture through an agent under a power of attorney which is of record at the time the declaration of forfeiture is recorded, but in so doing the seller shall be subject to liability under RCW 61.30.150 to the same extent as if the seller had personally signed and sworn to the declaration.

(2) The required notices shall be given:

(a) In any manner provided in the contract or other agreement with the seller; and

(b) By either personal service in the manner required for civil actions in any county in which any of the property is located or by mailing a copy

to the person for whom it is intended, postage prepaid, by certified or registered mail with return receipt requested and by regular first class mail, addressed to the person at the person's address last known to the seller or the seller's agent or attorney giving the notice. For the purposes of this subsection, the seller or the seller's agent or attorney giving the notice may rely upon the address stated in any recorded document which entitles a person to receive the required notices unless the seller or the seller's agent or attorney giving the notice knows such address to be incorrect.

If the address or identity of a person for whom the required notices are intended is not known to or reasonably discoverable at the time the notice is given by the seller or the seller's agent or attorney giving the notice, the required notices shall be given to such person ((~~by posting a copy which is directed to the attention of the person in a conspicuous place on the property.~~

~~If the identity of a person for whom the required notices are intended is not known to or reasonably discoverable by the seller or the seller's agent or attorney giving the notice, the required notices shall be given to such person~~)) by posting a copy in a conspicuous place on the property and publishing a copy ((~~which is~~)) thereof. The notice shall be directed to the attention of all persons ((~~who fall within a general description of those~~)) for whom the notice is intended (((~~such as "the unknown heirs of" a named person or "all persons unknown claiming an interest in the property described herein") and by publishing a copy thereof~~)), including the names of the persons, if so known or reasonably discoverable. The publication shall be made in a newspaper approved pursuant to RCW 65.16.040 and published in each county in which any of the property is located or, if no approved newspaper is published in the county, in an adjoining county, and if no approved newspaper is published in the county or adjoining county, then in an approved newspaper published in the capital of the state. The notice of intent to forfeit shall be published once a week for two consecutive weeks((~~; the first publication of which shall be not less than ten days after the notice of intent is recorded~~)). The declaration of forfeiture shall be published once.

(((~~(3) Notices which are served, mailed, or posted as provided in subsection (2)(b) of this section are given for purposes of this chapter when served, mailed, or posted. Notices which must be posted and published as provided in subsection (2)(b) of this section are given for the purposes of this chapter when posted and first published.~~)))

Sec. 6. Section 6, chapter 237, Laws of 1985 and RCW 61.30.060 are each amended to read as follows:

The notice of intent to forfeit shall be given not later than ten days after it is recorded. The declaration of forfeiture shall be given not later than three days after it is recorded. Either required notice may be given before it is recorded, but the declaration of forfeiture may not be given before the time for cure has expired. Notices which are served or mailed are given for

the purposes of this section when served or mailed. Notices which must be posted and published as provided in RCW 61.30.050(2)(b) are given for the purposes of this section when both posted and first published.

Sec. 7. Section 7, chapter 237, Laws of 1985 and RCW 61.30.070 are each amended to read as follows:

(1) The notice of intent to forfeit shall contain ((~~at least~~)) the following:

(a) The name, address, and telephone number of the seller and, if any, the seller's agent or attorney giving the notice;

(b) A description of the contract, including the names of the original parties to the contract, the date of the contract, and the recording number of the contract or memorandum thereof;

(c) A legal description of the property;

(d) A description of each default under the contract on which the notice is based;

(e) A statement that the contract will be forfeited if all defaults are not cured by a date stated in the notice which is not less than ninety days after the notice of intent to forfeit is recorded or any longer period specified in the contract or other agreement with the seller;

(f) A statement of the effect of forfeiture, including, to the extent applicable ((~~and provided in the contract~~)) that: (i) All right, title, and interest in the property of the purchaser and, to the extent elected by the seller, of all persons claiming through the purchaser or whose interests are otherwise subordinate to the seller's interest in the property shall be terminated; (ii) the purchaser's rights under the contract shall be canceled; (iii) all sums previously paid under the contract shall belong to and be retained by the seller or other person to whom paid and entitled thereto; (iv) all of the purchaser's rights in all improvements made to the property and in unharvested crops ((~~on the property~~)) and timber thereon shall belong to the seller; and (v) the purchaser and all other persons occupying the property whose interests are forfeited shall be required to surrender possession of the property, improvements, and unharvested crops and timber to the seller ten days after the declaration of forfeiture is recorded;

(g) An itemized statement or, to the extent not known at the time the notice of intent to forfeit is given or recorded, a reasonable estimate of all payments of money in default and, for defaults not involving the failure to pay money, a statement of the action required to cure the default;

(h) An itemized statement of all other payments, charges, fees, and costs, if any, or, to the extent not known at the time the notice of intent is given or recorded, a reasonable estimate thereof, that are or may be required to cure the defaults ((~~if the defaults are cured before the declaration of forfeiture is recorded~~));

(i) A statement that the ((~~purchaser or any person claiming through the purchaser has~~)) person to whom the notice is given may have the right

to contest the forfeiture, or to seek an extension of time to cure the default if the default does not involve a failure to pay money, or both, by commencing a court action ((~~prior to the effective date of forfeiture~~)) by filing and serving the summons and complaint before the declaration of forfeiture is recorded; ((~~and~~))

(j) A statement that the person to whom the notice is given may have the right to request a court to order a public sale of the property; that such public sale will be ordered only if the court finds that the fair market value of the property substantially exceeds the debt owed under the contract and any other liens having priority over the seller's interest in the property; that the excess, if any, of the highest bid at the sale over the debt owed under the contract will be applied to the liens eliminated by the sale and the balance, if any, paid to the purchaser; that the court will require the person who requests the sale to deposit the anticipated sale costs with the clerk of the court; and that any action to obtain an order for public sale must be commenced by filing and serving the summons and complaint before the declaration of forfeiture is recorded;

(k) A statement that the seller is not required to give any person any other notice of default before the declaration which completes the forfeiture is given, or, if the contract or other agreement requires such notice, the identification of such notice and a statement of to whom, when, and how it is required to be given; and

(l) Any additional information required by the contract or other agreement with the seller ((~~and any additional information the seller elects to include which is consistent with this section and with the contract or other agreement with the seller~~)).

(2) If the default is not cured ((~~as provided in RCW 61.30.090~~)) before the time for cure has expired, the seller may forfeit the contract by giving and recording a declaration of forfeiture which contains ((~~at least~~)) the following:

(a) The name, address, and telephone number of the seller;

(b) A description of the contract, including the names of the original parties to the contract, the date of the contract, and the recording number of the contract or memorandum thereof;

(c) A legal description of the property;

(d) To the extent applicable ((~~and provided in the contract~~)), a statement that all the purchaser's rights under the contract are canceled and all right, title, and interest in the property of the purchaser and of all persons claiming an interest in all or any portion of the ((~~contract, the~~)) property((~~; or any portion of either,~~)) through the purchaser or which is otherwise subordinate to the seller's interest in the property are terminated except to the extent otherwise stated in the declaration of forfeiture as to persons or claims named, identified, or described;

(e) To the extent applicable, a statement that all persons whose rights in the property have been terminated and who are in or come into possession of any portion of the property (including improvements and unharvested crops and timber) are required to surrender such possession to the seller not later than a specified date, which shall not be less than ten days after the declaration of forfeiture is recorded or such longer period provided in the contract or other agreement with the seller;

(f) A statement that the forfeiture was conducted in compliance with all requirements of this chapter in all material respects and applicable provisions of the contract; ((~~and~~))

(g) A statement that the purchaser and any person claiming any interest in the purchaser's rights under the contract or in the property who are given the notice of intent to forfeit and the declaration of forfeiture have the right((~~, for a period of sixty days following the date the declaration of forfeiture is recorded,~~)) to commence a court action to set the forfeiture aside by filing and serving the summons and complaint within sixty days after the date the declaration of forfeiture is recorded if the seller did not have the right to forfeit the contract or ((~~failed~~)) fails to comply with this chapter in any material respect; and

(h) Any additional information required by the contract or other agreement with the seller.

(3) The seller may include in either or both required notices any additional information the seller elects to include which is consistent with this chapter and with the contract or other agreement with the seller.

Sec. 8. Section 8, chapter 237, Laws of 1985 and RCW 61.30.080 are each amended to read as follows:

(1) If the seller fails to give any required notice within the time required by this chapter, the seller may record and give a subsequent notice of intent to forfeit or declaration of forfeiture, as applicable. Any such subsequent notice shall (a) include revised dates and information to the extent necessary to conform to this chapter as if the superseded notice had not been given or recorded; (b) state that it supersedes the notice being replaced; and (c) render void the previous notice which it replaces.

(2) If the seller fails to give the notice of intent to forfeit to all persons whose interests the seller desires to forfeit or to record such notice as ((~~in the manner~~)) required by this chapter, and if the declaration of forfeiture has not been given or recorded, the seller may give and record a new set of notices as required by this chapter. However, the new notices shall contain a statement that they supersede and replace the earlier notices and shall provide a new time for cure.

(((~~(2)~~))) (3) If the seller fails to give any required notice to all persons whose interests the seller desires to forfeit ((~~in the manner~~)) or to record such notice as required by this chapter, and ((~~the failure is not discovered until after the seller records the declaration of forfeiture~~)) if the declaration

of forfeiture has been given or recorded, the seller may ((~~obtain~~)) apply for a court order setting aside the forfeiture previously made, ((~~in which case~~)) and to the extent such order is entered, the seller may proceed as if no forfeiture had been commenced. However, no such order may be obtained without joinder and service upon the persons who were given the required notices and all other persons whose interests the seller desires to forfeit.

Sec. 9. Section 9, chapter 237, Laws of 1985 and RCW 61.30.090 are each amended to read as follows:

(1) Even if the contract contains a provision allowing the seller, because of a default in the purchaser's obligations under the contract, to accelerate the due date of some or all payments to be made or other obligations to be performed by the purchaser under the contract, the seller may not require payment of the accelerated payments or performance of the accelerated obligations as a condition to curing the default in order to avoid forfeiture except to the extent the payments or performance would be due without the acceleration. This subsection shall not apply to an acceleration because of a transfer, encumbrance, or conveyance of any or all of the purchaser's interest in any portion or all of the property if the contract being forfeited contains a provision accelerating the unpaid balance because of such transfer, encumbrance, or conveyance and such provision is enforceable under applicable law.

(2) ((~~Any person given rights to receive the required notices under~~)) All persons described in RCW 61.30.040 (1) and (2), regardless of whether given the notice of intent to forfeit, and any guarantor of or any surety for the purchaser's performance may cure the default. These persons may cure the default at any time before expiration of the time for cure and may act alone or in any combination. Any person having a lien of record against the property which would be eliminated in whole or in part by the forfeiture and who cures the purchaser's default pursuant to this section shall have included in its lien all payments made to effect such cure, including interest thereon at the rate specified in or otherwise applicable to the obligations secured by such lien.

(3) The seller may, but shall not be required to, accept tender of cure after the expiration of the time for cure and ((~~prior to the recordation of~~)) before the declaration of forfeiture is recorded. The seller may accept a partial cure. If the tender of such partial cure to the seller or the seller's agent or attorney is not accompanied by a written statement of the person making the tender acknowledging that such payment or other action does not fully cure the default, the seller shall notify such person in writing of the insufficiency and the amount or character thereof, which notice shall include an offer to refund any partial tender of money paid to the seller or the seller's agent or attorney upon written request. The notice of insufficiency may state that, by statute, such request must be made by a specified

date, which date may not be less than ninety days after the notice of insufficiency is served or mailed. The request must be made in writing and delivered or mailed to the seller or the person who gave the notice of insufficiency or the notice of intent to forfeit and, if the notice of insufficiency properly specifies a date by which such request must be made, by the date so specified. The seller shall refund such amount promptly following ((~~its~~)) receipt of such written request, if timely made, and the seller shall be liable to the person to whom such amount is due for that person's reasonable attorneys' fees and ((~~court~~)) other costs incurred in an action brought to recover such amount in which such refund or any portion thereof is found to have been improperly withheld. If the seller's written notice of insufficiency is not given to the person making the tender at least ten days before the expiration of the time for cure, then regardless of whether the tender is accepted the time for cure shall be extended for ten days from the date the seller's written notice of insufficiency is given. The seller shall not be required to extend the time for cure more than once even though more than one insufficient tender is made.

(4) Except as provided in this subsection, a timely tender of cure shall reinstate the contract. If a default that entitles the seller to forfeit the contract is not described in a notice of intent to forfeit previously given and the seller gives a notice of intent to forfeit concerning that default, timely cure of a default described in a previous notice of intent to forfeit shall not limit the effect of the subsequent notice.

(5) If the default is cured and a fulfillment deed is not given to the purchaser, the seller or the seller's agent or attorney shall sign, acknowledge, record, and deliver or mail to the purchaser and, if different, the person who made the tender a written statement that the contract is no longer subject to forfeiture under the notice of intent to forfeit previously given, referring to the notice of intent to forfeit by its recording number. A seller who fails within thirty days of written demand to give and record the statement required by this subsection, if such demand specifies the penalties in this subsection, is liable to the person who cured the default for the greater of five hundred dollars or actual damages, if any, and for reasonable attorneys' fees and other costs ((~~of the~~)) incurred in an action to recover such amount or damages.

(6) Any person curing or intending to cure any default shall have the right to request any court of competent jurisdiction to determine the reasonableness of any attorneys' fees which are included in the amount required to cure, and in making such determination the court may award the prevailing party its reasonable attorneys' fees and other costs incurred in the action. An action under this subsection shall not forestall any forfeiture or affect its validity.

Sec. 10. Section 10, chapter 237, Laws of 1985 and RCW 61.30.100 are each amended to read as follows:

(1) The recorded and sworn declaration of forfeiture shall be prima facie evidence of the extent of the forfeiture and compliance with this chapter and, except as otherwise provided in RCW 61.30.040 (1) and (2), conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

(2) Except as otherwise provided in this chapter ((~~and except to the extent otherwise provided in~~)) or the contract or other agreement with the seller, forfeiture of a contract under this chapter shall have the following effects:

(a) The purchaser, and all persons claiming through the purchaser or whose interests are otherwise subordinate to the seller's interest in the property who were given the required notices pursuant to this chapter, shall have no further rights in the contract or the property and no person shall have any right, by statute or otherwise, to redeem the property;

(b) All sums previously paid under the contract by or on behalf of the purchaser shall belong to and be retained by the seller or other person to whom paid; and

(c) All of the ((~~rights of the purchaser to~~)) purchaser's rights in all improvements made to the property and ((~~all~~)) in unharvested crops and timber thereon at the time the declaration of forfeiture is recorded shall be forfeited to the seller ((~~and~~)).

(3) The seller shall be entitled to possession of the property ten days after the declaration of forfeiture is recorded or any longer period provided in the contract or any other agreement with the seller. The seller may proceed under chapter 59.12 RCW to obtain such possession. Any person in possession who fails to surrender possession when required shall be liable to the seller for actual damages caused by such failure and for reasonable attorneys' fees and costs of the action.

(((~~3~~))) (4) After the declaration of forfeiture is recorded, the seller shall have no claim against and the purchaser shall not be liable to the seller for any portion of the purchase price unpaid or for any other breach of the purchaser's obligations under the contract, except for damages caused by waste to the property to the extent such waste results in the fair market value of the property on the date the declaration of forfeiture is recorded being less than the unpaid monetary obligations under the contract and all liens or contracts having priority over the seller's interest in the property.

Sec. 11. Section 11, chapter 237, Laws of 1985 and RCW 61.30.110 are each amended to read as follows:

(1) The forfeiture may be restrained or enjoined or the time for cure may be extended by court order only as provided in this section. A certified copy of any restraining order or injunction may be recorded in each county in which any part of the property is located.

(2) Any person entitled to cure the default may bring or join in an action under this section. No other person may bring such an action without

leave of court first given for good cause shown. Any such action shall be commenced ((~~before expiration of the time for cure~~)) by filing and serving the summons and complaint ((~~and serving~~)) before the declaration of forfeiture is recorded. Service shall be made upon the seller or the seller's agent or attorney, if any, ((~~giving either of the required notices~~)) who gave the notice of intent to forfeit. Concurrently with commencement of the action, the person bringing the action shall record a lis pendens in each county in which any part of the property is located. A court may preliminarily enjoin the giving and recording of the declaration of forfeiture upon a prima facie showing of the grounds set forth in this section for a permanent injunction. If the court issues an order restraining or enjoining the forfeiture then until such order expires or is vacated or the court otherwise permits the seller to proceed with the forfeiture, the declaration of forfeiture shall not be given or recorded. However, the commencement of the action shall not of itself extend the time for cure.

(3) The forfeiture may be ((~~restrained or~~)) permanently enjoined only when the person bringing the action proves that there is no default as claimed in the notice of intent to forfeit or that the purchaser has a claim against the seller which((~~, if successful, would~~)) releases, discharges, or excuses the default claimed in the notice of intent to forfeit, including by offset, or that there exists any material noncompliance with this chapter. The time for cure may be extended only when the default alleged is other than the failure to pay money, the nature of the default is such that it cannot practically be cured within the time stated in the notice of intent to forfeit, action has been taken and is diligently being pursued which would cure the default, and any person entitled to cure is ready, willing, and able to timely perform all of the purchaser's other contract obligations.

Sec. 12. Section 12, chapter 237, Laws of 1985 and RCW 61.30.120 are each amended to read as follows:

(1) Except for a sale ordered incident to foreclosure of the contract as a mortgage, a public sale of the property in lieu of the forfeiture may be ordered by the court only as provided in this section. Any person entitled to cure the default may bring or join in an action seeking an order of public sale in lieu of forfeiture. No other person may bring such an action without leave of court first given for good cause shown.

(2) An action under this section shall be commenced ((~~before expiration of the time for cure~~)) by filing and serving the summons and complaint ((~~and serving the seller or~~)) before the declaration of forfeiture is recorded. Service shall be made upon the seller or the seller's agent or attorney, if any, ((~~giving either of the required notices~~)) who gave the notice of intent to forfeit. Concurrently with commencement of the action, the person bringing the action shall record a lis pendens in each county in which any part of the property is located. After the commencement of an action under this section and before its dismissal, the denial of a request for a public sale,

or the vacation or expiration of an order for a public sale, the declaration of forfeiture shall not be given or recorded. However, commencement of the action shall not of itself extend the time for cure.

(3) If the court finds the then fair market value of the property substantially exceeds the unpaid and unperformed obligations secured by the contract and any other liens ((~~against the property that would not be eliminated by the forfeiture~~)) having priority over the seller's interest in the property, the court may require the property to be sold after the expiration of the time for cure in whole or in parcels to pay the costs of the sale and satisfy the amount the seller is entitled to be paid from the sale proceeds. Such sale shall be for cash to the highest bidder at a public sale by the sheriff at a courthouse of the county in which the property or any contiguous or noncontiguous portion thereof is located. The order requiring a public sale of the property shall specify the amount which the seller is entitled to be paid from the sale proceeds ((~~and~~)), which shall include all sums unpaid under the contract, irrespective of the due dates thereof, and such other costs and expenses to which the seller is entitled as a result of the purchaser's default under the contract, subject to any offsets or damages to which the purchaser is entitled. The order shall require any person requesting the sale to deposit with the clerk of the court, or such other person as the court may direct, the amount the court finds will be necessary to pay all of the costs and expenses of advertising and conducting the sale, including the notices to be given under subsections (4) and (5) of this section. The court shall require such deposit to be made within seven days, and if not so made the court shall vacate its order of sale ((~~and permit the seller to forfeit the contract~~)). Except as provided in subsections (6) and (8) of this section, the sale shall ((~~serve to~~)) eliminate the interests of the persons given the notice of intent to forfeit to the same extent that such interests would have been eliminated had the seller's forfeiture been effected pursuant to such notice.

(4) The sheriff shall endorse upon the order the time and date when the sheriff receives it and shall forthwith ((~~proceed to give~~)) post and publish the notice of sale specified in this subsection and sell the property, or so much thereof as may be necessary to discharge the amount the seller is entitled to be paid as specified in the court's order of sale. The notice of sale shall be printed or typed and contain the following information:

(a) A statement that the court has directed the sheriff to sell the property described in the notice of sale and the amount the seller is entitled to be paid from the sale proceeds as specified in the court's order;

(b) The caption, cause number, and court in which the order was entered;

(c) A legal description of the property to be sold, including the street address if any;

(d) The date and recording number of the contract;

(e) The scheduled date, time, and place of the sale;

(f) If the time for cure has not expired, the date it will expire and that the purchaser and other persons authorized to cure have the right to avoid the sale ordered by the court by curing the defaults specified in the notice of intent to forfeit before the time for cure expires;

(g) The right of the purchaser to avoid ((~~any public~~)) the sale ordered by the court by paying to the ((~~seller~~)) sheriff, at any time before the sale, in cash, the amount which the seller would be entitled to be paid from the proceeds of the sale, as specified in the court's order; and

(((~~g~~))) (h) A statement that unless otherwise provided in the contract between seller and purchaser or other agreement with the seller, no person shall have any right to redeem the property sold at the sale.

The notice of sale shall be given by posting a copy thereof for a period of not less than four weeks prior to the date of sale in three public places in ((~~the~~)) each county in which the property or any portion thereof is located, one of which shall be at the ((~~courthouse~~)) front door ((~~where the property is to be sold~~)) of the courthouse for the superior court of each such county, and one of which shall be placed in a conspicuous place on the property. ((~~If the property is improved, the notice posted thereon shall be at the front door of the principal building constituting such improvement.~~)) Additionally, the notice of sale shall be published once a week for two consecutive weeks in the newspaper or newspapers prescribed for published notices in RCW 61.30.050(2)(b). The sale shall be scheduled to be held not more than seven days ((~~following~~)) after the expiration of (i) the periods during which the notice of sale is required to be posted and published or (ii) the time for cure, whichever is later; however, the seller may, but shall not be required to, permit the sale to be scheduled for a later date. Upon the completion of the sale, the sheriff shall deliver a sheriff's deed to the property sold to the successful bidder.

(5) Within seven days following the ((~~entry of the court's order directing that the property be sold at a public sale~~)) date the notice of sale is posted on the property, the seller shall, by the means described in RCW 61.30.050(2), give a copy of the notice of sale to all persons who were given the notice of intent to forfeit, except the seller need not post or publish the notice of sale.

(6) Any person ((~~except the purchaser~~)) may bid at the sale. If the purchaser is the successful bidder, the sale shall not affect any interest in the property which is subordinate to the contract. If the seller is the successful bidder, the seller may offset against the price bid the amount the seller is entitled to be paid as specified in the court's order. Proceeds of such sale shall be first applied to ((~~the~~)) any costs and expenses of sale incurred by the sheriff and the seller in excess of the deposit referred to in subsection (3) of this section, and next to the amount the seller is entitled to be paid as

specified in the court's order. Any proceeds in excess of the amount necessary to pay such costs, expenses and amount, less the clerk's filing fee, shall be deposited with the clerk of the superior court of the county in which the sale took place, unless such surplus is less than the clerk's filing fee, in which event such excess shall be paid to the purchaser. The clerk shall index such funds under the name of the purchaser. Interests in or liens or claims of liens against the property eliminated by the sale shall attach to such surplus in the order of priority that they had attached to the property. The clerk shall not disburse the surplus except upon order of the superior court of such county, which order shall not be entered less than ten days following the deposit of the funds with the clerk.

(7) ((~~Following the expiration of the time for cure and prior to the sale being held~~)) In addition to the right to cure the default within the time for cure, the purchaser shall have the right to satisfy its obligations under the contract and avoid any public sale ordered by the court by paying to the ((~~seller~~)) sheriff, at any time before the sale, in cash, the amount which the seller would be entitled to be paid from the proceeds of the sale as specified in the court's order plus the amount of any costs and expenses of the sale incurred by the sheriff and the seller in excess of the deposit referred to in subsection (3) of this section. If the purchaser satisfies its obligations as provided in this subsection, the seller shall deliver its fulfillment deed to the purchaser.

(8) ((~~Following~~)) Unless otherwise provided in the contract or other agreement with the seller, after the public sale provided in this section ((~~neither the purchaser nor any other~~)) no person shall have any right, by statute or otherwise, to redeem the property and, subject to the rights of persons unaffected by the sale, the purchaser at the public sale shall be entitled to possession of the property ten days after the date of the sale and may proceed under chapter 59.12 RCW to obtain such possession.

(9) A public sale effected under this section shall satisfy the obligations secured by the contract, regardless of the sale price or fair value, and no deficiency decree or other judgment may thereafter be obtained on such obligations.

Sec. 13. Section 13, chapter 237, Laws of 1985 and RCW 61.30.130 are each amended to read as follows:

(1) If an order restraining or enjoining the forfeiture or an order of sale under RCW 61.30.120 expires or is dissolved or vacated at least ten days before expiration of the time for cure, the seller may proceed with the forfeiture under this chapter if the default is not cured at the end of ((~~that~~)) the time for cure. If any such order expires or is dissolved or vacated or such other final disposition is made at any time later than stated in the first sentence of this subsection, the seller may proceed with the forfeiture under

this chapter if the default is not cured, except the time for cure shall be extended for ten days after the final disposition or the expiration of, or entry of the order dissolving or vacating, the order.

(2) In actions under RCW 61.30.110 and 61.30.120, the court may award reasonable attorneys' fees and costs of the action to the prevailing party, except for such fees and costs incurred by a person requesting a public sale of the property.

(3) In actions under RCW 61.30.110 and 61.30.120, on the seller's motion the court may (a) require the person commencing the action to provide a bond or other security against all or a portion of the seller's damages and (b) impose other conditions, the failure of which may be cause for entry of an order dismissing the action and dissolving or vacating any restraining order, injunction, or other order previously entered.

(4) Actions under RCW 61.30.110, 61.30.120, or 61.30.140 shall be brought in the superior court of the county where the property is located or, if the property is located in more than one county, then in any of such counties, regardless of whether the property is contiguous or noncontiguous.

Sec. 14. Section 14, chapter 237, Laws of 1985 and RCW 61.30.140 are each amended to read as follows:

(1) An action to set aside ((~~the~~)) a forfeiture ((~~after the declaration of forfeiture has been recorded~~)) not otherwise void under RCW 61.30.040(1) may be commenced only after the declaration of forfeiture has been recorded and only as provided in this section, and regardless of whether an action was previously commenced under RCW 61.30.110.

(2) An action to set aside the forfeiture permitted by this section may be commenced only by a person entitled to be given the required notices under RCW 61.30.040 (1) and (2). For all persons given the required notices in accordance with this chapter, such an action shall be commenced by filing and serving the summons and complaint ((~~and serving the seller or the seller's agent or attorney, if any, giving either of the required notices;~~)) not later than sixty days after the declaration of forfeiture is recorded. Service shall be made upon the seller or the seller's attorney in fact, if any, who signed the declaration of forfeiture. Concurrently with commencement of the action, the person bringing the action shall record a lis pendens in each county in which any part of the property is located.

(3) The court may require that all payments specified in the notice of intent shall be paid ((~~into~~)) to the clerk of the court ((~~registry~~)) as a condition to maintaining an action to set aside the forfeiture. All payments falling due during the pendency of the action shall be paid ((~~into~~)) to the ((~~registry~~)) clerk of the court when due. These payments shall be calculated without regard to any acceleration provision in the contract (except an acceleration because of a transfer, encumbrance, or conveyance of the purchaser's interest in the property when otherwise enforceable) and without regard to the seller's contention the contract has been duly forfeited and

shall not include the seller's costs and fees of the forfeiture. The court may make orders regarding the investment or disbursement of these funds and may authorize payments to third parties instead of the clerk of the court ((~~registry~~)).

(4) The forfeiture shall not be set aside unless (a) the rights of bona fide purchasers for value and of bona fide encumbrancers for value of the property would not thereby be adversely affected and (b) the person bringing the action establishes that the seller was not entitled to forfeit the contract at the time the seller purported to do so or that the seller did not materially comply with the requirements of this chapter.

(5) If the purchaser or other person commencing the action establishes a right to set aside the forfeiture, the court shall award the purchaser or other person commencing the action actual damages, if any, and may award the purchaser or other person its reasonable attorneys' fees and costs of the action. If the court finds that the forfeiture was conducted in compliance with this chapter, the court shall award the seller actual damages, if any, and may award the seller its reasonable attorneys' fees and costs of the action.

(6) The seller is entitled to possession of the property and to the rents, issues, and profits thereof during the pendency of an action to set aside the forfeiture: PROVIDED, That the court may provide that possession of the property be delivered to or retained by the purchaser or some other person and may make other provisions for the rents, issues, and profits.

Sec. 15. Section 15, chapter 237, Laws of 1985 and RCW 61.30.150 are each amended to read as follows:

(1) Whoever knowingly swears falsely to any statement required by this chapter to be sworn is guilty of perjury and shall be liable for the statutory penalties therefor.

(2) A seller who records a declaration of forfeiture with actual knowledge or reason to know of a material failure to comply with any requirement of this chapter is liable to any person whose interest in the property or the contract, or both, has been forfeited without material compliance with this chapter for actual damages and actual attorneys' fees and costs of the action and, in the court's discretion, exemplary damages.

NEW SECTION. Sec. 16. This act applies to all real estate contract forfeitures initiated on or after the effective date of this act, regardless of when the real estate contract was made.

Passed the Senate February 12, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 87

[Engrossed Senate Bill No. 6600]

REPORTING BY PUBLIC EMPLOYEE OF ABUSE OF CHILD OR DEPENDENT ADULT—PUBLIC EMPLOYER TO PROVIDE LEGAL DEFENSE

AN ACT Relating to abuse of children and adult dependent or developmentally disabled persons; and adding a new section to chapter 26.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 26.44 RCW to read as follows:

In cases in which a public employee subject to RCW 26.44.030 acts in good faith and without gross negligence in his or her reporting duty, and if the employee's judgment as to what constitutes reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect is being challenged, the public employer shall provide for the legal defense of the employee.

Passed the Senate February 10, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 88

[Engrossed House Bill No. 254]

DRIVER'S LICENSE RENEWALS

AN ACT Relating to driver's license renewals; and amending RCW 46.20.021 and 46.20.120.

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

Sec. 1. Section 2, chapter 121, Laws of 1965 ex. sess. as last amended by section 2, chapter 302, Laws of 1985 and RCW 46.20.021 are each amended to read as follows:

(1) No person, except as expressly exempted by this chapter, may drive any motor vehicle upon a highway in this state unless the person has a valid driver's license issued under the provisions of this chapter. A violation of this subsection is a misdemeanor and is a lesser included offense within the offenses described in RCW 46.20.342(1), 46.20.416, 46.20.420, and 46.65.090.

(2) No person shall receive a driver's license unless and until he or she surrenders to the department all valid driver's licenses in his or her possession issued to him or her by any other jurisdiction. ((~~All surrendered licenses shall be returned by~~)) The department shall establish a procedure to invalidate the surrendered photograph license and return it to the person.

The invalidated license, along with the valid temporary Washington driver's license provided for in RCW 46.20.055(3), shall be accepted as proper identification. The department ((~~to~~)) shall notify the issuing department ((~~together with information~~)) that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time.

(3) Any person licensed as a driver under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations.

Sec. 2. Section 46.20.120, chapter 12, Laws of 1961 as last amended by section 4, chapter 1, Laws of 1985 ex. sess. and RCW 46.20.120 are each amended to read as follows:

No new driver's license may be issued and no previously issued license may be renewed until the applicant therefor has successfully passed a driver licensing examination: PROVIDED, That the department may waive all or any part of the examination of any person applying for the renewal of a driver's license except when the department determines that an applicant for a driver's license is not qualified to hold a driver's license under this title. For a new license examination a fee of seven dollars shall be paid by each applicant, in addition to the fee charged for issuance of the license. A new license is one issued to a driver who has not been previously licensed in this state or to a driver whose last previous Washington license has been expired for more than four years.

Any person renewing his or her driver's license more than sixty days after the license has expired shall pay a penalty fee of ten dollars in addition to the renewal fee under RCW 46.20.181. The penalty fee shall be deposited in the highway safety fund.

Any person who is outside the state at the time his or her driver's license expires or who is unable to renew the license due to any incapacity may renew the license within sixty days after returning to this state or within sixty days after the termination of any such incapacity without the payment of ((~~a new license examination fee. In such case the department may waive all or any part of the examination as in the case of renewal of driver licenses~~)) the penalty fee.

The department shall provide for giving examinations at places and times reasonably available to the people of this state.

Passed the House March 5, 1988.
Passed the Senate February 26, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 89

[Substitute Senate Bill No. 6350]

GUIDE OR SERVICE DOGS—INJURING OR KILLING—MANDATORY MONETARY PENALTY—FEES AND COSTS

AN ACT Relating to guide and service dogs; adding new sections to chapter 70.84 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 70.84 RCW to read as follows:

A person who negligently or maliciously kills or injures a guide or service dog is liable for a penalty of one thousand dollars, to be paid to the user of the dog. The penalty shall be in addition to and not in lieu of any other remedies or penalties, civil or criminal, provided by law.

NEW SECTION. Sec. 2. A new section is added to chapter 70.84 RCW to read as follows:

A user or owner of a guide or service dog, whose dog is negligently or maliciously injured or killed, is entitled to recover reasonable attorneys' fees and costs incurred in pursuing any civil remedy.

Passed the Senate February 16, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 90

[Senate Bill No. 6291]

RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

AN ACT Relating to the expansion and improvement of the relocation assistance and real property acquisition policies; amending RCW 8.26.010, 8.26.020, 8.26.180, 8.26.190, and 8.26.200; adding new sections to chapter 8.26 RCW; creating new sections; repealing RCW 8.26.030, 8.26.040, 8.26.050, 8.26.060, 8.26.070, 8.26.080, 8.26.090, 8.26.100, 8.26.110, 8.26-.120, 8.26.130, 8.26.140, 8.26.150, 8.26.160, and 8.26.170; and declaring an emergency.

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

PART I
GENERAL PROVISIONS

Sec. 1. Section 1, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.010 are each amended to read as follows:

PURPOSES AND SCOPE. (1) The purposes of this chapter are:

((~~(1)~~)) (a) To establish a uniform policy for the fair and equitable treatment of persons displaced as a direct result of public works programs of the state and local governments in order that such persons shall not suffer

disproportionate injuries as a result of programs designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons; ((and

~~(2)~~)) (b) To encourage and expedite the acquisition of real property for public works programs by agreements with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by state and local programs, and to promote public confidence in state and local land acquisition practices.

(2) Notwithstanding the provisions and limitations of this chapter requiring a local public agency to comply with the provisions of this chapter, the governing body of any local public agency may elect not to comply with the provisions of sections 3 through 11 of this act in connection with a program or project not receiving federal financial assistance. Any person who has the authority to acquire property by eminent domain under state law may elect not to comply with sections 12 through 14 of this act in connection with a program or project not receiving federal financial assistance.

(3) Any determination by the head of a state agency or local public agency administering a program or project as to payments under this chapter is subject to review pursuant to chapter 34.04 RCW; otherwise, no provision of this chapter may be construed to give any person a cause of action in any court.

(4) Nothing in this chapter may be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately before the effective date of this act.

Sec. 2. Section 2, chapter 240, Laws of 1971 ex. sess. as amended by section 1, chapter 34, Laws of 1972 ex. sess. and RCW 8.26.020 are each amended to read as follows:

DEFINITIONS. As used in this chapter((~~=~~)):

(1) The term "state" means any department, commission, agency, or instrumentality of the state of Washington.

(2) The term "local public ((~~body" as used in this chapter~~)) agency" applies to any county, city or town, or other municipal corporation or political subdivision of the state and any person who has the authority to acquire property by eminent domain under state law, or any instrumentality of any of the foregoing ((~~but only with respect to any program or project the cost of which is financed in whole or in part by a federal agency. Notwithstanding the limitations of this subsection, the governing body of any county, city or town, or other municipal corporation or political subdivision of the state or any instrumentality of any of the foregoing may elect to comply with all the provisions of this chapter in connection with programs and projects not receiving federal assistance~~)).

(3) The term "person" means any individual, partnership, corporation, or association.

(4) (a) The term "displaced person" means, except as provided in (b) of this subsection, any person who((~~, on or after July 1, 1971,~~)) moves from real property ((~~lawfully occupied by him~~)), or moves his personal property from real property ((~~on which it was lawfully located, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by the state, or a local public body. Solely for the purposes of subsections (1) and (2) of RCW 8.26.040 and RCW 8.26.070, the term "displaced person" includes any person who, on or after July 1, 1971, moves from real property or moves his personal property from real property, as a result of the acquisition of, or the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for a program or project undertaken by the state or a local public body.~~))

(i) as a direct result of a written notice of intent to acquire, or the acquisition of, such real property in whole or in part for a program or project undertaken by a displacing agency; or

(ii) on which the person is a residential tenant or conducts a small business, a farm operation, or a business defined in this section, as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a displacing agency in any case in which the displacing agency determines that the displacement is permanent.

Solely for the purposes of sections 3 (1) and (2) and 6 of this act, the term "displaced person" includes any person who moves from real property, or moves his personal property from real property

(i) as a direct result of a written notice of intent to acquire, or the acquisition of, other real property in whole or in part on which the person conducts a business or farm operation, for a program or project undertaken by a displacing agency; or

(ii) as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which the person conducts a business or a farm operation, under a program or project undertaken by a displacing agency where the displacing agency determines that the displacement is permanent.

(b) The term "displaced person" does not include:

(i) A person who has been determined, according to criteria established by the lead agency, to be either unlawfully occupying the displacement dwelling or to have occupied the dwelling for the purpose of obtaining assistance under this chapter; or

(ii) In any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of the property at the time it was acquired) who occupies the property on a

rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(5) The term "business" means any lawful activity, excepting a farm operation, conducted primarily((~~=~~)):

(a) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of ((~~subsection (1) of RCW 8.26.040~~)) section 3 of this act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by ((~~means of~~)) the erection and maintenance of an outdoor advertising display or displays, ((~~otherwise lawfully erected and maintained;~~)) whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(6) The term "farm operation((~~s~~))" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or for home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(7) The term "comparable replacement dwelling" means any dwelling that is (a) decent, safe, and sanitary; (b) adequate in size to accommodate the occupants; (c) within the financial means of the displaced person; (d) functionally equivalent; (e) in an area not subject to unreasonably adverse environmental conditions; and (f) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(8) For purposes of RCW 8.26.180 through 8.26.200, the term "acquiring agency" means:

(a) A state agency or local public agency that has the authority to acquire property by eminent domain under state law; or

(b) Any state agency, local public agency, or person that (i) does not have the authority to acquire property by eminent domain under state law and (ii) has been designated an "acquiring agency" under rules adopted by the lead agency. However, the lead agency may only designate a state agency, local public agency, or a person as an "acquiring agency" to the extent that it is necessary in order to qualify for federal financial assistance.

(9) The term "displacing agency" means the state agency, local public agency, or any person carrying out a program or project, with federal or state financial assistance, that causes a person to be a displaced person.

(10) The term "federal financial assistance" means a grant, loan, or contribution provided by the United States, except any federal guarantee or

insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(11) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this state, together with the credit instruments, if any, secured thereby. ((~~The term "mortgage" shall include real estate contracts.~~))

(12) The term "lead agency" means the Washington state department of transportation.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

PART II
UNIFORM RELOCATION ASSISTANCE POLICY

NEW SECTION. Sec. 3. MOVING AND RELATED EXPENSES. (1) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:

(a) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, in accordance with criteria established by the lead agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the lead agency, but not to exceed ten thousand dollars.

(2) A displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive an expense and dislocation allowance determined according to a schedule established by the lead agency.

(3) A displaced person eligible for payments under subsection (1) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section. The payment shall

consist of a fixed payment in an amount to be determined according to criteria established by the lead agency, except that the payment shall be not less than one thousand dollars nor more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of that property to others does not qualify for a payment under this subsection.

NEW SECTION. Sec. 4. REPLACEMENT HOUSING FOR HOMEOWNERS. (1) In addition to payments otherwise authorized by this chapter, the displacing agency shall make an additional payment, not in excess of twenty-two thousand five hundred dollars, to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred and eighty days immediately before the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

(a) The amount, if any, that when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable and necessary cost of a comparable replacement dwelling;

(b) The amount, if any, that will compensate the displaced person for any increased mortgage interest costs and other debt service costs that the person is required to pay for financing the acquisition of any such comparable replacement dwelling. This amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than one hundred and eighty days immediately before the initiation of negotiations for the acquisition of the dwelling;

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which the person receives final payment from the displacing agency for the acquired dwelling or the date on which the obligation of the displacing agency under section 7 of this act is met, whichever date is later, except that the displacing agency may extend the period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of that date.

NEW SECTION. Sec. 5. REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS. (1) In addition to amounts otherwise authorized by this chapter, a displacing agency shall make a payment to or for a displaced person displaced from a dwelling not eligible to receive a payment under section 4 of this act if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety days immediately before (a) the initiation of negotiations for acquisition of the dwelling, or (b) in any case in which displacement is not a direct result of acquisition,

such other event as the lead agency prescribes. The payment shall consist of the amount necessary to enable the person to lease or rent for a period not to exceed forty–two months, a comparable replacement dwelling, but not to exceed five thousand two hundred fifty dollars. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low–income displaced person for a comparable replacement dwelling shall take into account the person's income.

(2) A person eligible for a payment under subsection (1) of this section may elect to apply the payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (1) of this section, except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least ninety days but not more than one hundred eighty days immediately before the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment the person would otherwise have received under section 4(1) of this act had the person owned and occupied the displacement dwelling one hundred eighty days immediately before the initiation of the negotiations.

NEW SECTION. Sec. 6. RELOCATION ASSISTANCE ADVISORY SERVICES. (1) Programs or projects undertaken by a displacing agency shall be planned in a manner that (a) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (b) provides for the resolution of the problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(2) Displacing agencies shall ensure that the relocation assistance advisory services described in subsection (3) of this section are made available to all persons displaced by the agency. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make available to the person the advisory services.

(3) Each relocation assistance advisory program required by subsection (2) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(b) Provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for

displaced homeowners and tenants and suitable locations for businesses and farm operations;

(c) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(d) Supply (i) information concerning federal, state, and local programs that may be of assistance to displaced persons, and (ii) technical assistance to the persons in applying for assistance under those programs;

(e) Provide other advisory services to displaced persons in order to minimize hardships to them in adjusting to relocation; and

(f) Coordinate relocation activities performed by the agency with other federal, state, or local governmental actions in the community that could affect the efficient and effective delivery of relocation assistance and related services.

(4) Notwithstanding RCW 8.26.020(4)(b), in any case in which a displacing agency acquires property for a program or project, a person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project is eligible for advisory services to the extent determined by the displacing agency.

NEW SECTION. Sec. 7. ASSURANCE OF AVAILABILITY OF HOUSING. (1) If a program or project undertaken by a displacing agency cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that the dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide the dwellings by use of funds authorized for the project. The displacing agency may use this section to exceed the maximum amounts that may be paid under sections 4 and 5 of this act on a case–by–case basis for good cause as determined in accordance with rules adopted by the lead agency.

(2) No person may be required to move from a dwelling on account of any program or project undertaken by a displacing agency unless the displacing agency is satisfied that comparable replacement housing is available to the person.

(3) The displacing agency shall assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of the following:

(a) A major disaster as defined in section 102(2) of the Federal Disaster Relief Act of 1974;

(b) A national emergency declared by the president; or

(c) Any other emergency that requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

NEW SECTION. Sec. 8. AUTHORITY OF THE LEAD AGENCY. (1) The lead agency, after full consultation with the department of general administration, shall adopt rules and establish such procedures as the lead agency may determine to be necessary to assure:

(a) That the payments and assistance authorized by this chapter are administered in a manner that is fair and reasonable and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for that person by this chapter is paid promptly after a move or, in hardship cases, is paid in advance; and

(c) That a displaced person who is aggrieved by a program or project that is under the authority of a state agency or local public agency may have his application reviewed by the state agency or local public agency.

(2) The lead agency, after full consultation with the department of general administration, may adopt such other rules and procedures, consistent with the provisions of this chapter, as the lead agency deems necessary or appropriate to carry out this chapter.

(3) State agencies and local public agencies shall comply with the rules adopted pursuant to this section by April 2, 1989.

NEW SECTION. Sec. 9. ADMINISTRATION. In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, a state agency or local public agency may enter into contracts with any individual, firm, association, or corporation for services in connection with this chapter or may carry out its functions under this chapter through any federal or state agency or local public agency having an established organization for conducting relocation assistance programs. The state agency or local public agency shall, in carrying out relocation activities described in section 7 of this act, whenever practicable, use the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

NEW SECTION. Sec. 10. FUND AVAILABILITY. (1) Funds appropriated or otherwise available to a state agency or local public agency for the acquisition of real property or an interest therein for a particular program or project shall also be available to carry out the provisions of this chapter as applied to that program or project.

(2) No payment or assistance under this chapter may be required to be made to any person or included as a program or project cost under this section, if the person receives a payment required by federal, state, or local law that is determined by the head of the displacing agency to have substantially the same purpose and effect as that payment under this chapter.

NEW SECTION. Sec. 11. RELOCATION ASSISTANCE PAYMENTS NOT INCOME OR RESOURCES. No payment received by a

displaced person under sections 3 through 10 of this act may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of any income tax or any tax imposed under Title 82 RCW, and the payments shall not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW.

PART III
UNIFORM REAL PROPERTY ACQUISITION POLICY

Sec. 12. Section 18, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.180 are each amended to read as follows:

ACQUISITION PROCEDURES. Every ((~~state~~)) acquiring agency ((~~and local public body acquiring real property in connection with any program or project~~)) shall, to the greatest extent practicable, be guided by the following policies:

(1) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during his inspection of the property, except that the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value.

(3) Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation therefor, and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The acquiring agency shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where appropriate the just compensation for the real property acquired, for damages to remaining real property, and for benefits to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the acquiring agency's approved appraisal of the fair market value of such property, or

the amount of the award of compensation in the condemnation proceeding of such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least ninety days written notice of the date by which such move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only ((~~part~~)) a portion of a property would leave ((~~its~~)) the owner with an uneconomic remnant, the ((~~acquiring~~)) head of the agency concerned shall offer to acquire ((~~the entire property~~)) that remnant. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and that the head of the agency concerned has determined has little or no value or utility.

(10) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his right to receive just compensation for the property, donate the property, any part thereof, any interest therein, or any compensation paid for it to any agency as the person may determine.

Sec. 13. Section 19, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.190 are each amended to read as follows:

BUILDINGS, STRUCTURES, AND IMPROVEMENTS. (1) Where any interest in real property is acquired, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which is determined to be adversely affected by the use to which such real property will be put ((~~shall be acquired~~)).

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired ((~~as above set forth~~)) under subsection (1) of this section, such building,

structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant of the lands, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the ((~~tenant therefor~~)) owner of such building, structure, or improvement.

(3) Payment for such building((s)), structure((s)), or improvement((s ~~as set forth above~~)) under subsection (1) of this section shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all his right, title, and interest in and to such improvements. Nothing with regard to the above-mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of this state.

Sec. 14. Section 20, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.200 are each amended to read as follows:

EXPENSES INCIDENTAL TO TRANSFER OF RIGHT, TITLE, OR INTEREST TO THE ACQUIRING AGENCY. ((~~A state agency or a local public body acquiring real property,~~)) As soon as practicable after the date of payment of the purchase price or the date ((~~or~~)) of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, the acquiring agency shall reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses the owner necessarily incurred for((~~=~~)):

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring agency;

(2) Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is the earlier.

NEW SECTION. Sec. 15. EFFECT ON PROPERTY ACQUISITIONS. The provisions of RCW 8.26.180, 8.26.190, and 8.26.200 create no rights or liabilities and do not affect the validity of any property acquisitions by purchase or condemnation.

PART IV
SEVERABILITY, REPEALS, ETC.

NEW SECTION. Sec. 16. (1) 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.

(2) If any part of this chapter is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and that finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed.

(1) Section 3, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.030;

(2) Section 4, chapter 240, Laws of 1971 ex. sess., section 1, chapter 7, Laws of 1984 and RCW 8.26.040;

(3) Section 5, chapter 240, Laws of 1971 ex. sess., section 2, chapter 7, Laws of 1984 and RCW 8.26.050;

(4) Section 6, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.060;

(5) Section 7, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.070;

(6) Section 8, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.080;

(7) Section 9, chapter 240, Laws of 1971 ex. sess. and RCW 8.26.090;

(8) Section 10, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.100;

(9) Section 11, chapter 240, Laws of 1971 ex. sess., section 3, chapter 7, Laws of 1984 and RCW 8.26.110;

(10) Section 12, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.120;

(11) Section 13, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.130;

(12) Section 14, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.140;

(13) Section 15, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.150;

(14) Section 16, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.160; and

(15) Section 17, chapter 240, Laws of 1971 ex. sess. and RCW 8.26-.170.

NEW SECTION. Sec. 18. Sections 3 through 11 and 15 of this act are added to chapter 8.26 RCW.

NEW SECTION. Sec. 19. Section captions and part divisions in this act do not constitute any part of the law.

NEW SECTION. Sec. 20. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 91

[Senate Bill No. 6745]

TELECOMMUNICATIONS—DISCLOSURE OF ALTERNATE OPERATOR SERVICES

AN ACT Relating to alternate operator services; and adding new sections to chapter 80-.36 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that a growing number of companies provide, in a nonresidential setting, telecommunications services necessary to long distance service without disclosing the services provided or the rate, charge or fee. The legislature finds that provision of these services without disclosure to consumers is a deceptive trade practice.

NEW SECTION. Sec. 2. The utilities and transportation commission shall by rule require, at a minimum, that any telecommunications company, operating as or contracting with an alternate operator services company, assure appropriate disclosure to consumers of the provision and the rate, charge or fee of services provided by an alternate operator services company.

For the purposes of this chapter, "alternate operator services company" means a person providing a connection to intrastate or interstate long-distance services from places including, but not limited to, hotels, motels, hospitals, and customer-owned pay telephones.

NEW SECTION. Sec. 3. In addition to the penalties provided in this title, a violation of section 1 or 2 of this act constitutes a violation of chapter 19.86 RCW, the consumer protection act. It shall be presumed that damages to the consumer are equal to the cost of the service provided plus two hundred dollars. Additional damages must be proved.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act are each added to chapter 80.36 RCW.

Passed the Senate March 8, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 92

[Senate Bill No. 6245]

EXCESS EARNINGS ACCOUNT

AN ACT Relating to investment of bond proceeds; adding a new section to chapter 39.42 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 39.42 RCW to read as follows:

The excess earnings account is created in the state treasury. From the revenue funds from which principal and interest payments on bonds are provided, the state treasurer shall periodically transfer to the excess earnings account such amounts as are owed to the federal government under section 148 of the federal internal revenue code. Pursuant to legislative appropriation from the excess earnings account, the state treasurer shall periodically remit to the United States treasury any amounts owed to the federal government under section 148 of the federal internal revenue code.

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 10, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 93

[Substitute Senate Bill No. 6404]

EMERGENCY PUBLIC WORKS PROJECTS—LOW-INTEREST OR INTEREST-FREE LOANS

AN ACT Relating to funding emergency public works projects from the public works assistance account; amending RCW 43.155.060 and 43.155.070; and adding a new section to chapter 43.155 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.155 RCW to read as follows:

The board may make low-interest or interest-free loans to local governments for emergency public works projects. The loans may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation. Emergency loans may be made only from those funds specifically appropriated from the public works assistance account for such purpose by the legislature. The amount appropriated from the public works assistance account for emergency loan purposes shall not exceed five percent of the total amount appropriated from this account in any biennium.

Sec. 2. Section 11, chapter 446, Laws of 1985 and RCW 43.155.060 are each amended to read as follows:

In order to aid the financing of public works projects, the board may:

(1) Make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

(2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.

(3) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(4) Provide a method for the allocation of loans and financing guarantees and the provision of technical assistance under this chapter.

All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under section 1 of this 1988 act for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter.

Sec. 3. Section 12, chapter 446, Laws of 1985 as amended by section 40, chapter 505, Laws of 1987 and RCW 43.155.070 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) The cost of the project compared to the size of the local government and amount of loan money available;

(d) The number of communities served by or funding the project;

(e) Whether the project is located in an area of high unemployment, compared to the average state unemployment; and

(f) Other criteria that the board considers advisable.

((~~(5)~~)) (3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

((~~(6)~~)) (4) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under section 1 of this 1988 act during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds

being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

((~~(7)~~)) (5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsections (4) and (5) of this section do not apply to loans made for emergency public works projects under section 1 of this 1988 act.

Passed the Senate February 12, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 94

[Engrossed House Bill No. 662]

FIREARMS OR AMMUNITION—PRODUCTS LIABILITY

AN ACT Relating to products liability actions involving firearms or ammunition; and amending RCW 7.72.030.

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

Sec. 1. Section 4, chapter 27, Laws of 1981 and RCW 7.72.030 are each amended to read as follows:

(1) A product manufacturer is subject to liability to a claimant if the claimant's harm was proximately caused by the negligence of the manufacturer in that the product was not reasonably safe as designed or not reasonably safe because adequate warnings or instructions were not provided.

(a) A product is not reasonably safe as designed, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, outweighed the burden on the manufacturer to design a product that would have prevented those harms and the adverse effect that an alternative design that was practical and feasible would have on the usefulness of the product: PROVIDED, That a firearm or ammunition shall not be deemed defective in design on the basis that the benefits of the product do not outweigh the risk of injury posed by its potential to cause serious injury, damage, or death when discharged.

(b) A product is not reasonably safe because adequate warnings or instructions were not provided with the product, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, rendered the warnings or instructions of the manufacturer inadequate and the manufacturer could have provided the warnings or instructions which the claimant alleges would have been adequate.

(c) A product is not reasonably safe because adequate warnings or instructions were not provided after the product was manufactured where a manufacturer learned or where a reasonably prudent manufacturer should have learned about a danger connected with the product after it was manufactured. In such a case, the manufacturer is under a duty to act with regard to issuing warnings or instructions concerning the danger in the manner that a reasonably prudent manufacturer would act in the same or similar circumstances. This duty is satisfied if the manufacturer exercises reasonable care to inform product users.

(2) A product manufacturer is subject to strict liability to a claimant if the claimant's harm was proximately caused by the fact that the product was not reasonably safe in construction or not reasonably safe because it did not conform to the manufacturer's express warranty or to the implied warranties under Title 62A RCW.

(a) A product is not reasonably safe in construction if, when the product left the control of the manufacturer, the product deviated in some material way from the design specifications or performance standards of the manufacturer, or deviated in some material way from otherwise identical units of the same product line.

(b) A product does not conform to the express warranty of the manufacturer if it is made part of the basis of the bargain and relates to a material fact or facts concerning the product and the express warranty proved to be untrue.

(c) Whether or not a product conforms to an implied warranty created under Title 62A RCW shall be determined under that title.

(3) In determining whether a product was not reasonably safe under this section, the trier of fact shall consider whether the product was unsafe to an extent beyond that which would be contemplated by the ordinary consumer.

Passed the House January 22, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 95

[Substitute House Bill No. 1285]

GRAIN DEALERS—LICENSE FEES REVISED—BONDING REVISIONS

AN ACT Relating to grain dealers; and amending RCW 22.09.055 and 22.09.060.

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

Sec. 1. Section 23, chapter 303, Laws of 1983 as amended by section 14, chapter 203, Laws of 1986 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 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. The license fee for grain dealers exempted from bonding under RCW 22.09.060 shall be seventy-five 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. 2. Section 6, chapter 124, Laws of 1963 as last amended by section 1, chapter 509, Laws of 1987 and RCW 22.09.060 are each amended to read as follows:

Except as provided in RCW 22.09.405(2), no warehouse or grain dealer license may be issued to an applicant before a bond, certificate of deposit, or other security is given to the department as provided in RCW 22.09.090, or in RCW 22.09.095. No warehouse license may be issued to an applicant before a certificate of insurance as provided in RCW 22.09.110 has been filed with the department. Grain dealers may be exempted by rule from the bonding requirement if the grain dealer does not do more than one hundred thousand dollars in business annually and makes payments solely in coin or currency of the United States at the time of obtaining possession or control of grain. However, a cashier's check, certified check, or bankdraft may be considered as cash for purposes of this section.

Passed the House March 7, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 96

[Substitute House Bill No. 1680]

NONRESIDENTS—SALES TAX EXEMPTION—REVISIONS REGARDING PROOF OF NONRESIDENT STATUS—PENALTIES

AN ACT Relating to the taxation of sales to nonresidents; amending RCW 82.08.0273; and providing an effective date.

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

Sec. 1. Section 39, chapter 37, Laws of 1980 as amended by section 1, chapter 5, Laws of 1982 1st ex. sess. and RCW 82.08.0273 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser ((~~has applied for and received from the department of revenue a permit certifying (1) that he~~)) (a) is a bona fide resident of a state or possession or Province of Canada other than the state of Washington((~~, (2) that~~)) and such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (((~~(3) that he does~~)) (b) agrees, when requested, to grant the department of revenue access to such records and other forms of verification at his or her place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2)(a) Any person claiming exemption from retail sales tax under the provisions of this section must display ((~~a nonresident permit~~)) proof of his or her current nonresident status as herein provided((~~, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each nontaxable sale.~~

~~Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of five dollars. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department for all permit fees collected, after deducting as a collection fee the sum of one dollar for each permit issued~~)).

(b) Acceptable proof of a nonresident person's status shall include two pieces of identification: (i) A valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction and (ii) a credit card, checks, or other reliable identification.

Identification under (i) of this subsection (2)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(3) Nothing in this section requires the vendor to make tax exempt retail sales to nonresidents. A vendor may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the vendor chooses to make a sale to a nonresident without collecting the sales tax, the vendor shall, in good faith, examine the proof of nonresidence, determine whether the proof is acceptable under subsection (2)(b) of this section, and maintain records for each nontaxable sale which shall show the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

(4)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a vendor, in order to ((~~secure a permit~~)) purchase goods without paying retail sales tax shall be guilty of perjury. Any person making tax exempt purchases under this section by displaying ((~~a permit~~)) proof of identification not his or her own, or ((~~a~~)) counterfeit ((~~permit~~)) identification, with intent to violate the provisions of this section, shall be guilty of a misdemeanor and, in addition, ((~~may be subject to a penalty not to exceed the amount of~~)) shall be liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

(b) Any vendor who makes sales without collecting the tax to a person who does not hold ((~~a~~)) valid ((~~permit~~)) identification establishing out-of-state residency, and any vendor who fails to maintain records of ((~~permit numbers~~)) sales to nonresidents as provided in this section, shall be personally liable for the amount of tax due. Any vendor who makes sales without collecting the retail sales tax under this section and who has actual knowledge that the purchaser's proof of identification establishing out-of-state residency is fraudulent shall be guilty of a misdemeanor and, in addition, shall be liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the purchaser and the vendor shall be liable for any penalties and interest assessable under chapter 82.32 RCW.

NEW SECTION. Sec. 2. This act shall take effect July 1, 1989.

Passed the House February 15, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 97

[House Bill No. 1694]

BACKGROUND CHECK ON TEACHERS IN THE COMMON SCHOOLS—EXCEPTION FOR CERTAIN TEACHERS OF OLDER STUDENTS

AN ACT Relating to the personal qualifications of applicants for certificates issued by the superintendent of public instruction; amending RCW 28A.70.005; repealing RCW 28A.70.140; and declaring an emergency.

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

Sec. 1. Section 28A.70.005, chapter 223, Laws of 1969 ex. sess. as last amended by section 8, chapter 486, Laws of 1987 and RCW 28A.70.005 are each amended to read as follows:

The state board of education shall establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. Except for applicants who are applying for certificates which restrict the holder of the certificate to the teaching of students who are sixteen years of age or older, the rules shall require that the initial application for certification shall require a background check of the applicant through the Washington state patrol criminal identification system at the applicant's expense.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations.

NEW SECTION. Sec. 2. Section 28A.70.140, chapter 223, Laws of 1969 ex. sess., section 145, chapter 176, Laws of 1969 ex. sess., section 1, chapter 55, Laws of 1974 ex. sess., section 136, chapter 275, Laws of 1975 1st ex. sess., section 5, chapter 92, Laws of 1975–'76 2nd ex. sess., section 13, chapter 56, Laws of 1983 and RCW 28A.70.140 are each repealed.

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 February 15, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 98

[Engrossed Substitute House Bill No. 1740]
HIGHWAY FATALITY MARKERS

AN ACT Relating to highway fatality markers; adding a new section to chapter 47.42 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.42 RCW to read as follows:

(1) The department of transportation shall conduct a demonstration project for the installation of highway fatality markers along state route number 26 between the cities of Vantage and Colfax, state route number 270 from the city of Pullman to the Washington and Idaho border, and state route number 195 between the cities of Colfax and Pullman.

(2) As used in this section "highway fatality marker" means a sign designed by the department and placed at or near the location of a traffic fatality. Each marker designates the loss of one life.

(3) The department shall issue permits for the erection and maintenance of highway fatality markers. Application for a permit shall be made on a form furnished by the department. The application shall contain a consent statement from the owner or lessee of the land upon which the marker is to be placed.

(4) The legislative authority of any county, city, or town, and private individuals and groups located within the demonstration project area may apply for permits for the erection and maintenance of highway fatality markers.

(5) An applicant with an approved permit is responsible for the erection and maintenance of the marker as specified in the permit issued by the department.

(6) A member of the immediate family of the deceased for whom a marker has been erected may request that the marker be removed.

(7) The markers shall be installed as close as practicable to the right of way of the highway. The markers shall be placed in such a manner as to maximize the visibility of the marker without obstructing the view of the motoring public.

(8) Upon request, the department shall provide information regarding the location of fatal traffic accidents within the demonstration area.

(9) The permittee shall immediately remove markers that are unlawfully erected or that are not in compliance with the requirements of their permits.

(10) The department shall adopt rules for the erection and maintenance of highway fatality markers. The department shall confer with affected governmental agencies, individuals, and groups within the demonstration project area in the development of the rules.

(11) This section shall expire December 31, 1992.

Passed the House February 11, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 99

[Substitute Senate Bill No. 6703]

UNDERGROUND FACILITIES—OWNERS TO SUBSCRIBE TO ONE-NUMBER LOCATOR SERVICE

AN ACT Relating to underground facilities; amending RCW 19.122.030; and adding a new section to chapter 19.122 RCW.

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

Sec. 1. Section 3, chapter 144, Laws of 1984 and RCW 19.122.030 are each amended to read as follows:

Before commencing any excavation, the excavator shall provide notice of the scheduled commencement of excavation to all owners of underground facilities through a one-number locator service. All owners of underground facilities within a one-number locator service area shall subscribe to the service. One number locator service rates for cable television companies will be based on the amount of their underground facilities. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities not less than two business days or more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed by the parties.

Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of such facilities shall provide the excavator with the best available information as to their locations. The owner of the underground facility providing the information shall respond no later than

two business days after the receipt of the notice or before the excavation time, at the option of the owner, unless otherwise agreed by the parties. Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, the excavator is responsible for maintaining the markings. Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this section.

The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two business days prior to the excavation from the excavator.

An owner of underground facilities is not required to indicate the presence of existing service laterals or appurtenances if the presence of existing service laterals or appurtenances on the site of the construction project can be determined from the presence of other visible facilities, such as buildings, manholes, or meter and junction boxes on or adjacent to the construction site.

Emergency excavations are exempt from the time requirements for notification provided in this section.

If the excavator, while performing the contract, discovers underground facilities which are not identified, the excavator shall cease excavating in the vicinity of the facility and immediately notify the owner or operator of such facilities, or the one-number locator service.

NEW SECTION. Sec. 2. A new section is added to chapter 19.122 RCW to read as follows:

Excavators who comply with the requirements of this chapter are not liable for any damages arising from contact or damage to an underground fiber optics facility other than the cost to repair the facility.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 100

[Engrossed Second Substitute House Bill No. 537]
FERRY ADVISORY COMMITTEES

AN ACT Relating to ferry advisory committees; and amending RCW 47.60.310.

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

Sec. 1. Section 47.60.310, chapter 13, Laws of 1961 as last amended by section 24, chapter 15, Laws of 1983 and RCW 47.60.310 are each amended to read as follows:

(1) The department is further directed to conduct such review by soliciting and obtaining expressions from local community groups in order to be properly informed as to problems being experienced within the area served by the Washington state ferries. In order that local representation may be established, the department shall give prior notice of the review to the ((~~legislative authority of Clallam, Island, Jefferson, King, Kitsap, Pierce, San Juan, Skagit, and Snohomish counties~~)) ferry advisory committees.

(2) ((~~Each such county~~)) The legislative ((~~authority~~)) authorities of San Juan, Skagit, Clallam, and Jefferson counties shall each appoint a committee to consist of five members to serve as an advisory committee to the department or its designated representative in such review. The legislative authorities of other counties that contain ferry terminals shall appoint ferry advisory committees consisting of three members for each terminal area in each county, except for Vashon Island, which shall have one committee, and its members shall be appointed by the Vashon/Maury Island community council. At least one person appointed to each ferry advisory committee shall be representative of an established ferry user group or of frequent users of the ferry system. Each member shall reside in the vicinity of the terminal that the advisory committee represents.

(3) The members of ((~~each~~)) the San Juan, Clallam, and Jefferson county ferry advisory committees shall be appointed for four-year terms. The initial terms shall commence on July 1, 1982, and end on June 30, 1986. Any vacancy shall be filled for the remainder of the unexpired term by the appointing authority. At least one person appointed to ((~~each~~)) the advisory committee shall be representative of an established ferry-user group or of frequent users of the ferry system, at least one shall be representative of persons or firms using or depending upon the ferry system for commerce, and one member shall be representative of a local government ((~~transportation~~)) planning body or its staff. Every member shall be a resident of the county upon whose advisory committee he or she sits, and not more than three members shall at the time of their appointment be members of the same major political party.

(4) The members of each terminal area committee shall be appointed for four-year terms. The initial terms of the members of each terminal area committee shall be staggered as follows: All terms shall commence September 1, 1988, with one member's term expiring August 31, 1990, one member's term expiring August 31, 1991, and the remaining member's term expiring August 31, 1992. Any vacancy shall be filled for the remainder of the unexpired term by the appointing authority. Not more than two members of any terminal-area committee may be from the same political party at the time of their appointment, and in a county having more than one committee, the overall party representation shall be as nearly equal as possible.

(5) The chairmen of the several committees constitute an executive committee of the Washington state ferry users. The executive committee shall meet twice each year with representatives of the marine division of the department to review ferry system issues.

(6) The committees to be appointed by the county legislative authorities shall serve without fee or compensation.

Passed the House March 5, 1988.
Passed the Senate February 24, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 101

[House Bill No. 1288]

SUNDAY LIQUOR SALES BY VENDORS OF OWN PRODUCT

AN ACT Relating to regulation of hours for Washington state liquor control board outlets; and amending RCW 66.16.080.

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

Sec. 1. Section 11, chapter 62, Laws of 1933 ex. sess. and RCW 66-.16.080 are each amended to read as follows:

No sale or delivery of liquor shall be made on or from the premises of any state liquor store, nor shall any store be open for the sale of liquor, on Sunday, unless the board determines that unique circumstances exist which necessitate Sunday liquor sales by vendors appointed under RCW 66.08.050(2) of products of their own manufacture, not to exceed one case of liquor per customer.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 102

[House Bill No. 1332]

PUBLIC PRINTER—BOND CERTIFICATES OR BOND OFFERING DISCLOSURE DOCUMENTS

AN ACT Relating to the printing of bond certificates; and amending RCW 43.78.030.

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

Sec. 1. Section 43.78.030, chapter 8, Laws of 1965 as last amended by section 1, chapter 72, Laws of 1987 and RCW 43.78.030 are each amended to read as follows:

The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other

printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, or to the printing of bond certificates or bond offering disclosure documents. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and binding of whatever description as may be needed by any institution of higher learning, institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern. Further, where any printing or binding needed by an institution of higher education is to be paid for from research grant or contract funds, short course revenues, or other nonstate appropriated funding source, such printing or binding may be done by any private printing company in the state of Washington, irrespective of the dollar limit specified in this section, when in the judgment of the officer of the institution so ordering, the saving in time or cost justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars.

Passed the House March 5, 1988.
Passed the Senate February 26, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 103

[Engrossed House Bill No. 1507]

SALES OR USE TAX ON FOOD PRODUCTS SOLD BY CERTAIN VENDORS—STUDY IMPACT ON RETAILERS OF MODIFICATION OF RETAIL SALES TAX

AN ACT Relating to sales or use tax exemptions on food products sold by vendors required to have a worker's permit under RCW 69.06.010; amending RCW 82.08.0293 and 82.12.0293; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 33, chapter 35, Laws of 1982 1st ex. sess. as last amended by section 1, chapter 182, Laws of 1986 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.

(2) The exemption of "food products" provided for in ((~~this~~)) subsection (1) of this section 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)~~)) (b) 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, or (c) to a food product, when sold by the retail vendor, which by law must be handled on the vendor's premises by a person with a food and beverage service worker's permit under RCW 69.06.010, including but not be limited to sandwiches prepared or chicken cooked on the premises, deli trays, home-delivered pizzas or meals, and salad bars but excluding:

(i) Raw meat prepared by persons who slaughter animals, including fish and foul, or dress or wrap slaughtered raw meat such as fish mongers, butchers, or meat wrappers;

(ii) Meat and cheese sliced and/or wrapped, in any quantity determined by the buyer, sold by vendors such as meat markets, delicatessens, and grocery stores;

(iii) Bakeries which only sell baked goods;

(iv) Combination bakery businesses, as prescribed by rule of the department, to the extent that sales of baked goods are separately accounted for and the baked goods claimed for exemption are not sold as part of meals or with beverages in unsealed containers; or

(v) Bulk food products sold from bins or barrels, including but not limited to flour, fruits, vegetables, sugar, salt, candy, chips, and cocoa.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food products" provided in this section shall apply to food products which are furnished, prepared, or served as meals:

(a) 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

(b) 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.

((~~(2)~~)) (4) 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 last amended by section 2, chapter 182, Laws of 1986 and RCW 82.12.0293 are each amended to read as follows:

(1) 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.

(2) The exemption of "food products" provided for in ((~~this paragraph~~)) subsection (1) of this section 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)~~)) (b) 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, or (c) to a food product, when sold by the retail vendor, which by law must be handled on the vendor's premises by a person with a food and beverage service worker's permit under RCW 69.06.010, including but not be limited to sandwiches prepared or chicken cooked on the premises, deli trays, home-delivered pizzas or meals, and salad bars but excluding:

(i) Raw meat prepared by persons who slaughter animals, including fish and foul, or dress or wrap slaughtered raw meat such as fish mongers, butchers, or meat wrappers;

(ii) Meat and cheese sliced and/or wrapped, in any quantity determined by the buyer, sold by vendors such as meat markets, delicatessens, and grocery stores;

(iii) Bakeries which only sell baked goods;

(iv) Combination bakery businesses, as prescribed by rule of the department, to the extent that sales of baked goods are separately accounted for and the baked goods claimed for exemption are not sold as part of meals or with beverages in unsealed containers; or

(v) Bulk food products sold from bins or barrels, including but not limited to flour, fruits, vegetables, sugar, salt, candy, chips, and cocoa.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food products" provided in this section shall apply to food products which are furnished, prepared, or served as meals:

(a) 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

(b) 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.

NEW SECTION. Sec. 3. The department of revenue shall study the costs and problems imposed on retailers by modifications to the rate or base of the retail sales tax, including local option sales taxes. The department shall report the results of the study to the ways and means committees of the senate and house of representatives by October 1, 1988.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1988.

Passed the House March 7, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 104

[Engrossed House Bill No. 1626]

EMERGENCY MEDICAL CARE OR SERVICES—TRANSPORTATION OF PATIENTS

AN ACT Relating to emergency medical services; and amending RCW 18.71.010, 18.73-.010, and 18.73.030; and declaring an emergency.

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

Sec. 1. Section 2, chapter 60, Laws of 1957 as last amended by section 51, chapter 158, Laws of 1979 and RCW 18.71.010 are each amended to read as follows:

The following terms used in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Board" means the board of medical examiners.

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

(3) "Resident physician" means an individual who has graduated from a school of medicine which meets the requirements set forth in RCW 18-.71.055 and is serving a period of postgraduate clinical medical training sponsored by a college or university in this state or by a hospital accredited by this state. For purposes of this chapter, the term shall include individuals designated as intern or medical fellow.

(4) "Emergency medical care" or "emergency medical service" has the same meaning as in chapter 18.73 RCW.

Sec. 2. Section 1, chapter 208, Laws of 1973 1st ex. sess. as amended by section 1, chapter 214, Laws of 1987 and RCW 18.73.010 are each amended to read as follows:

The legislature finds that a state-wide program of emergency medical care is necessary to promote the health, safety, and welfare of the citizens of this state. The intent of the legislature is that the secretary of the department of social and health services develop and implement a system to promote immediate ((~~prehospital~~)) treatment for victims of motor vehicle accidents, suspected coronary illnesses, and other acute illness or trauma.

The legislature further recognizes that emergency medical care and transportation methods are constantly changing and conditions in the various regions of the state vary markedly. The legislature, therefore, seeks to establish a flexible method of implementation and regulation to meet those conditions.

Sec. 3. Section 3, chapter 208, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 214, Laws of 1987 and RCW 18.73.030 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as used in this chapter shall have the meanings indicated.

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

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

(3) "Committee" means the emergency medical services committee.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) " Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(6) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081.

(7) "Ambulance operator" means a person who owns one or more ambulances and operates them as a private business.

(8) "Ambulance director" means a person who is a director of a service which operates one or more ambulances provided by a volunteer organization or governmental agency.

(9) "Aid vehicle operator" means a person who owns one or more aid vehicles and operates them as a private business.

(10) "Aid director" means a person who is a director of a service which operates one or more aid vehicles provided by a volunteer organization or governmental agency.

(11) "Emergency medical care" or "emergency medical service" means such medical treatment and care which may be rendered at the scene of ((a)) any medical emergency ((and)) or while transporting ((a)) any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(12) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services system.

(13) "Emergency medical services region" means a region established by the secretary of the department of social and health services pursuant to RCW 18.73.060, as now or hereafter amended.

(14) "Patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the care of the emergency patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for serious conditions.

(15) "Patient care guidelines" means written operating procedures adopted by the local or regional emergency medical services councils and the emergency medical services medical program director and may include which level of medical care personnel will be dispatched to an emergency scene, which hospital will first receive the patient and which hospitals are appropriate for transfer if necessary.

(16) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(17) "Council" means the local or regional emergency medical services advisory council.

(18) "Basic life support" means emergency medical ((~~treatment~~)) services.

(19) "Advanced life support" means emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(20) "System service area" means an emergency medical service area that develops because of trade, patient catchment, market, or other factors and may include county or multicounty boundaries.

(21) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

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 February 3, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 105

[Senate Bill No. 6418]

SENIOR DEVELOPMENT PROGRAM—DESIGN TO MEET NEEDS OF LOCAL GOVERNMENT

AN ACT Relating to leadership development; and creating new sections.

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

NEW SECTION. Sec. 1. In Washington state's highly dynamic economic, fiscal, and demographic environment, the legislature recognizes an increasing need to develop strong leaders and managers among the elected officials and senior administrators of cities, counties, and other political subdivisions. Diverse and often competing interests, increasingly sophisticated technology, and an intensifying complexity of relationships are only a few of the factors affecting the performance of these officials.

NEW SECTION. Sec. 2. The director of the department of community development, in consultation with the higher education coordinating board, the schools and divisions of policy and business management at the state's public and private institutions of higher education, and the respective state associations of local public officials shall develop a proposal for a senior development program designed to meet the particular needs of local government managers, including, but not limited to:

(1) A continuing series of intensive seminars to be conducted within the state with a central focus on the critical areas of competence for managers of local governmental units;

(2) Consideration of accessibility, cost, potential funding sources, and classes of candidates who are most likely to benefit from such programs; and

(3) Techniques for securing the highest possible caliber of seminar leaders, instructors, visiting fellows, and other specialists who can serve as resources for the programs.

NEW SECTION. Sec. 3. The department shall make its first progress report on the program proposal to the committee on governmental operations in the senate and the committee on local government in the house of representatives no later than September 15, 1988. A final report containing the proposal for a senior development program, with any needed recommendations to the legislature, shall be submitted to the same legislative committees by December 1, 1988.

Passed the Senate February 15, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 106

[Substitute Senate Bill No. 6603]

AIR QUALITY OPACITY LIMITATIONS—ALTERNATE STANDARDS

AN ACT Relating to air quality opacity limitations; and reenacting and amending RCW 70.94.331.

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

Sec. 1. Section 46, chapter 238, Laws of 1967 as last amended by section 39, chapter 109, Laws of 1987 and by section 13, chapter 405, Laws of 1987 and RCW 70.94.331 are each reenacted and amended to read as follows:

(1) The department shall have all the powers as provided in RCW 70.94.141.

(2) The department, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapter 42-.30 RCW and chapter 34.04 RCW shall:

(a) Adopt rules and regulations establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, except for emission performance standards for new wood stoves and opacity levels for residential solid fuel burning devices which shall be state-wide, but in no event may less stringent standards be enacted by an authority without the prior approval of the department after public hearing and due notice to interested parties;

(c) Adopt by rule and regulation air quality standards and emission standards for the control or prohibition of emissions to the outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter. However, an industry, or the air pollution control authority having jurisdiction, can choose, subject to the submittal of appropriate data that the industry has quantified, to have any limit on the opacity of emissions from a source whose emission standard is stated in terms of a weight of particulate per unit volume of air (e.g., grains per dry standard cubic foot) be based on the applicable particulate emission standard for that source, such that any violation of the opacity limit accurately indicates a violation of the applicable particulate emission standard. A reasonable fee may be assessed to the industry to which the alternate opacity standard would apply. The fee shall cover only those costs to the air pollution control authority which are directly related to the determination on the acceptability of the alternate opacity standard, including testing, oversight and review of data.

(3) The air quality standards and emission standards may be for the state as a whole or may vary from area to area, except that emission performance standards for new wood stoves and opacity levels for residential solid fuel burning devices shall be state–wide, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonable foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The department is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The department is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

(6) The department shall enforce the air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The department shall encourage local units of government to handle air pollution problems within their respective jurisdictions; and, on a cooperative basis provide technical and consultative assistance therefor.

(8) The department shall have the power to require the addition to or deletion of a county from an existing authority in order to carry out the

purposes of this chapter: PROVIDED, HOWEVER, That no such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.04 RCW.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 107

[Engrossed Substitute House Bill No. 2038]

HEALTH CARE REFORM ACT—PURCHASED HEALTH CARE

AN ACT Relating to state-funded health care and state employees' insurance benefits; amending RCW 28A.58.420, 41.04.205, 41.05.050, 41.04.230, 41.40.380, 47.64.270, and 48-.24.010; adding new sections to chapter 41.05 RCW; adding a new section to chapter 48.14 RCW; adding a new section to chapter 82.04 RCW; creating new sections; repealing RCW 41.05.005, 41.05.010, 41.05.025, 41.05.030, 41.05.040, 41.05.045, 41.05.060, 41.05.070, and 70.14.010; providing an effective date; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. This chapter shall be known as the Washington state health care reform act of 1988.

NEW SECTION. Sec. 2. (1) The legislature recognizes that (a) the state is a major purchaser of health care services, (b) the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state, (c) it is the state's policy, consistent with the best interests of the state, to provide comprehensive health care as an employer, to state employees and officials and their dependents and to those who are dependent on the state for necessary medical care, and (d) it is imperative that the state begin to develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to continue to purchase the most comprehensive health care possible.

(2) It is therefore the purpose of this chapter to establish the Washington state health care authority whose purpose shall be to (a) develop health care benefit programs, funded to the fullest extent possible by the employer, that provide comprehensive health care for eligible state employees, officials, and their dependents, and (b) study all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services and make recommendations aimed at minimizing the financial burden which health care poses on the state, its employees, and its charges, while at the same time allowing the state to provide the most comprehensive health care possible.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurance carrier as defined in chapter 48.21 or 48.22 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state transfers any of its insurance programs to an insurance program administered by the authority pursuant to RCW 41.04.205, and employees of a school district if the board of directors of the school district seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority as provided in RCW 28A.58.420.

(7) "Board" means the state employees' benefits board established under section 7 of this act.

NEW SECTION. Sec. 4. The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The primary duties of the authority shall be to administer state employees' insurance benefits and to study state-purchased health care programs in order to maximize cost containment in these programs while

ensuring access to quality health care. The authority's duties include, but are not limited to, the following:

(1) To administer a health care benefit program for employees as specifically authorized in section 8 of this act;

(2) To analyze the state-purchased health care programs and to explore options for cost-containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(a) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(b) Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods;

(c) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(d) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(e) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs;

(3) To analyze areas of public and private health care interaction; and

(4) To provide information and technical and administrative assistance to the board.

NEW SECTION. Sec. 5. The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, and the superintendent of public instruction.

The authority, in conjunction with these 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; and

(4) A mechanism for program and budget review of health care data.

NEW SECTION. Sec. 6. (1) The authority shall submit to the legislature, no later than December 1, 1989, a report analyzing the provision of health care benefits to school employees including innovative local programs, and the potential benefits or cost savings resulting from integration of local school districts into benefit plans offered by the authority. The superintendent of public instruction shall assist the authority by collecting the necessary data from the school districts of the state.

(2) The authority shall review state-purchased health care programs and regulatory agencies, including medical services within the department of labor and industries, medical services within the department of veterans' affairs, the basic health plan, medical programs within the department of social and health services, any other state-purchased health care programs as deemed appropriate by the administrator, the hospital commission, the health planning and certificate of need sections of the department of social and health services, the board of health, the department of licensing, the state health care facilities authority, the state health care coordinating council, and the office of the insurance commissioner and submit to the legislature, no later than December 1, 1990, an initial report including, but not limited to:

(a) A description of the respective roles of these programs and agencies regarding health care cost containment;

(b) A plan to increase the combined efficiency of these programs and agencies to control costs and maintain or improve access to quality care;

(c) Methods to encourage coordination between these programs and agencies and the authority;

(d) An analysis of the real and potential impacts of cost shifting; and

(e) Recommendations regarding structural changes in the state's current health care delivery system.

NEW SECTION. Sec. 7. (1) The state employees' benefits board is created within the authority. The function of the board is to design and approve insurance benefit plans for state employees.

(2) The board shall be composed of seven members appointed by the governor as follows:

(a) Three representatives of state employees, one of whom shall represent an employee association certified as exclusive representative of at least one bargaining unit of classified employees and one of whom shall represent an employee union certified as exclusive representative of at least one bargaining unit of classified employees;

(b) Three members with experience in health benefit management and cost containment; and

(c) The administrator.

(3) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms. Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall serve as chair of the board. Meetings of the board shall be at the call of the chair.

NEW SECTION. Sec. 8. (1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability

insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state: PROVIDED, That liability insurance shall not be made available to dependents.

(2) The state employees' benefits board shall develop employee benefit plans that include comprehensive health care benefits for all employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, exercise, and automobile and motorcycle safety;

(d) Utilization review procedures including, but not limited to prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers; and

(e) Effective coordination of benefits.

(3) The board shall design benefits and determine the terms and conditions of employee participation and coverage, including establishment of eligibility criteria.

(4) The board may authorize premium contributions for an employee and the employee's dependents. Such authorization shall require a vote of five members of the board for approval.

(5) Employees may choose participation in only one of the health care benefit plans developed by the board.

(6) The board shall review plans proposed by insurance carriers that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by carriers holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans.

NEW SECTION. Sec. 9. (1) The administrator shall provide employee benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by section 12 of this act.

(2) The administrator shall establish a contract bidding process that encourages competition among insuring entities, is timely to the state budgetary process, and sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee health plans and develop enrollment demographics on a plan-specific basis.

(5) The administrator shall establish methods for collecting, analyzing, and disseminating to covered individuals information on the cost and quality of services rendered by individual health care providers.

(6) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary to fulfill the administrator's duties as set forth in this chapter.

(7) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to section 8(2)(a)(i), (b), and (d) of this act.

(8) Beginning in January 1990, and each January thereafter, the administrator shall publish and distribute to each school district a description of health care benefit plans available through the authority and the estimated cost if school district employees were enrolled.

NEW SECTION. Sec. 10. (1) The state employees' insurance account is hereby established in the custody of the state treasurer, to be used by the administrator for the deposit of contributions, reserves, dividends, and refunds, and for payment of premiums for employee insurance benefit contracts. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the account shall be credited to the account.

(2) The state treasurer and the state investment board may invest moneys in the state employees' insurance account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the state employees' insurance account.

NEW SECTION. Sec. 11. The state health care authority administrative account is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation by statute, and may be used only for operating expenses of the authority.

NEW SECTION. Sec. 12. (1) The authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction except property and casualty insurance. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program. Reserves established by the authority shall be held in a separate trust fund by the state treasurer and shall be known as the state employees' insurance reserve fund. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the state employees' insurance reserve fund.

(2) Any savings realized as a result of a program created under this section shall not be used to increase benefits unless such use is authorized by statute.

(3) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(4) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(5) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate.

NEW SECTION. Sec. 13. Beginning on the effective date of this section, the state employees' insurance board may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction except property and casualty insurance according to the same terms and conditions as will apply to the authority under section 12 of this act.

NEW SECTION. Sec. 14. (1) The administrator shall appoint a health care policy technical advisory committee. Its function is to advise the authority on effective approaches to cost control, quality assurance, and access to health care.

(2) The committee shall be composed of persons who have a demonstrated interest and expertise in one or more of the following areas: Health

care purchasing; health care delivery; health administration; health care research and analysis; and ethics of health care. Board members shall include representatives of the following entities: Private health care purchasers; health care providers; insurance carriers; health care service contractors; health maintenance organizations; state agencies that purchase health care; the insurance commissioner; and health care consumers.

(3) The initial members of the committee shall be appointed for intervals of one to three years. Thereafter, all committee members shall serve a term of three years. Committee members shall receive no compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 15. The administrator may promulgate and adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.04 RCW.

Sec. 16. Section 28A.58.420, chapter 223, Laws of 1969 ex. sess. as last amended by section 8, chapter 277, Laws of 1985 and RCW 28A.58-.420 are each amended to read as follows:

(1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, ((~~self-insurance~~)) with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds shall be available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district. The premiums due on such protection or insurance shall be borne by the assenting school board member or student: PROVIDED, That the school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57 and 18.71 RCW.

Sec. 17. Section 1, chapter 106, Laws of 1975-'76 2nd ex. sess. and RCW 41.04.205 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance program administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines a transfer to an insurance program administered under chapter 41.05 RCW should be made: PROVIDED, That this section shall have no application to ((~~school district personnel provided for in RCW 28A.58.420 and~~)) members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW: PROVIDED FURTHER, That in the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members: PROVIDED FURTHER, That contributions by any county, municipality, or other political subdivision to which coverage is extended after the effective date of this 1988 act shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date upon which coverage is extended.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state ((~~employees' insurance board, as defined in RCW 41.05.010 as now or hereafter amended,~~)) health care authority shall:

(a) Establish the conditions under which the transfer may be made, which shall include the requirements that:

(i) All the eligible employees of the political subdivision transfer as a unit, and

(ii) the political subdivision involved obligate itself to make employer contributions in an amount at least equal to those provided by the state as employer; and

(b) Hold public hearings on the application for transfer; and

(c) Have the sole right to reject the application.

Approval of the application by the state ((~~employees' insurance board~~)) health care authority shall effect a transfer of the employees involved to the insurance or health care program applied for.

Sec. 18. Section 9, chapter 2, Laws of 1983 as last amended by section 4, chapter 122, Laws of 1987 and RCW 41.05.050 are each amended to read as follows:

(1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health

care plans for its employees and their dependents, the content of such plans to be determined by the ((~~state employees' insurance board. Such~~)) authority. Contributions, ((~~which shall be~~)) paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the ((~~state employees' insurance board~~)) authority to pay ((~~the~~)) such administrative expenses of the ((~~board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: PROVIDED, That this administrative service charge for state employees shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee~~)) authority as are necessary to administer the plans for employees of those groups. All such contributions will be paid into the state employees' health insurance ((~~principal~~)) account ((~~to be expended in accordance with RCW 41.05.030~~)).

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the ((~~state employees' insurance board~~)) authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose((~~: PROVIDED, That provision for school district personnel shall not be made under this chapter: PROVIDED FURTHER, That~~)). However, insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(3) The ((~~trustee~~)) administrator with the assistance of the ((~~department of personnel~~)) state employees' benefits board shall survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the ((~~state employees' insurance board~~)) authority. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the ((~~board~~)) authority for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The ((~~board~~)) authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

Sec. 19. Section 5, chapter 59, Laws of 1969 as last amended by section 1, chapter 271, Laws of 1985 and RCW 41.04.230 are each amended to read as follows:

Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages

of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That the credit union is organized solely for public employees: AND PROVIDED FURTHER, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: PROVIDED, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: PROVIDED, FURTHER, That labor or employee organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Voluntary deductions for political committees duly registered with the public disclosure commission and/or the federal election commission: PROVIDED, That twenty-five or more officers or employees of a single agency or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same political committee.

(8) Insurance contributions to the ((~~trustee of contracts~~)) authority for payment of premiums under contracts authorized by the state ((~~employees' insurance board~~)) health care authority.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state ((~~employees' insurance board~~)) health care authority.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction.

Sec. 20. Section 39, chapter 274, Laws of 1947 as last amended by section 24, chapter 326, Laws of 1987 and RCW 41.40.380 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules and regulations that may be promulgated by the state ((~~employees' insurance board~~)) health care authority and/or the department of retirement systems, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, or (d) any administrative or court order expressly authorized by federal law.

Sec. 21. Section 18, chapter 15, Laws of 1983 as amended by section 2, chapter 78, Laws of 1987 and RCW 47.64.270 are each amended to read as follows:

Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state ((~~employees' insurance board~~)) health care authority, under chapter 41.05 RCW. The ferry system management and employee organizations may collectively bargain for other insurance and health care plans, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050, subject to RCW 47.64.180. To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985–87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987–89 fiscal biennium or the 1985–87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985–87 shortage in the required offset. Compensation shall include all wages and employee benefits.

Sec. 22. Section .24.01, chapter 79, Laws of 1947 as amended by section 11, chapter 147, Laws of 1973 1st ex. sess. and RCW 48.24.010 are each amended to read as follows:

(1) No contract of life insurance shall hereafter be delivered or issued for delivery in this state insuring the lives of more than one individual unless to one of the groups as provided for in this chapter, and unless in compliance with the other provisions of this chapter.

(2) Subsection (1) of this section shall not apply to contracts of life insurance

(a) insuring only individuals related by marriage, by blood, or by legal adoption; or

(b) insuring only individuals having a common interest through ownership of a business enterprise, or of a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(c) insuring the lives of employees and retirees under contracts executed with the state ((~~employees insurance board~~)) health care authority under the provisions of chapter 41.05 RCW.

NEW SECTION. Sec. 23. The state employees' insurance board is hereby abolished and its powers, duties, and functions are hereby transferred to the state health care authority.

NEW SECTION. Sec. 24. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state employees' insurance board shall be delivered to the custody of the state health care authority. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the state employees' insurance board shall be made available to the state health care authority. All funds, credits, or other assets held by the state employees' insurance board shall be assigned to the state health care authority.

Any appropriations made to the state employees' insurance board shall, on the effective date of this section, be transferred and credited to the state health care authority.

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. 25. All employees of the department of personnel serving the state employees' insurance board are transferred to the jurisdiction of the state health care authority. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the state health care authority 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. 26. All rules and all pending business before the state employees' insurance board shall be continued and acted upon by the state health care authority. All existing contracts and obligations shall remain in full force and shall be performed by the state health care authority.

NEW SECTION. Sec. 27. The transfer of the powers, duties, and functions of the state employees' insurance board and the personnel serving the state employees' insurance board shall not affect the validity of any act performed prior to the effective date of this section.

NEW SECTION. Sec. 28. If apportionments of budgeted funds are required because of the transfers directed by sections 24 through 27 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. 29. Nothing contained in sections 23 through 28 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. 30. All moneys in the state employees' insurance principal account shall be deposited in the state employees' insurance account established pursuant to section 10 of this act and all moneys in the state employees' insurance administrative account shall be deposited in the state health care authority administrative account established pursuant to section 11 of this act, on the effective date of this section.

NEW SECTION. Sec. 31. From the effective date of this section until October 1, 1988, the director of financial management shall review and approve actions of the state employees' insurance board relating to contracts for state employee health insurance benefits.

NEW SECTION. Sec. 32. A new section is added to chapter 48.14 RCW to read as follows:

The taxes imposed in RCW 48.14.020 do not apply to premiums collected or received before July 1, 1990, for medical and dental coverage purchased under chapter 41.05 RCW.

NEW SECTION. Sec. 33. A new section is added to chapter 82.04 RCW to read as follows:

In computing tax, insurers as defined by RCW 48.01.050, may deduct from the measure of tax amounts paid out for claims incurred before July 1, 1990, for covered health services under medical and dental coverage purchased under chapter 41.05 RCW.

NEW SECTION. Sec. 34. Sections 1 through 5, 7 through 12, 14, and 15 of this act are each added to chapter 41.05 RCW.

NEW SECTION. Sec. 35. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 136, Laws of 1977 ex. sess. and RCW 41.05-.005;

(2) Section 1, chapter 39, Laws of 1970 ex. sess., section 12, chapter 147, Laws of 1973 1st ex. sess., section 2, chapter 106, Laws of 1975-'76 2nd ex. sess., section 2, chapter 125, Laws of 1979, section 90, chapter 3, Laws of 1983 and RCW 41.05.010;

(3) Section 2, chapter 136, Laws of 1977 ex. sess., section 1, chapter 125, Laws of 1979, section 2, chapter 120, Laws of 1980, section 1, chapter 34, Laws of 1982 1st ex. sess., section 91, chapter 3, Laws of 1983, section 68, chapter 287, Laws of 1984 and RCW 41.05.025;

(4) Section 3, chapter 39, Laws of 1970 ex. sess., section 2, chapter 147, Laws of 1973 1st ex. sess., section 1, chapter 38, Laws of 1975 1st ex. sess., section 1, chapter 122, Laws of 1987 and RCW 41.05.030;

(5) Section 4, chapter 39, Laws of 1970 ex. sess., section 3, chapter 136, Laws of 1977 ex. sess., section 24, chapter 57, Laws of 1985, section

901, chapter 312, Laws of 1986, section 3, chapter 122, Laws of 1987 and RCW 41.05.040;

(6) Section 2, chapter 122, Laws of 1987 and RCW 41.05.045;

(7) Section 6, chapter 39, Laws of 1970 ex. sess. and RCW 41.05.060;

(8) Section 7, chapter 39, Laws of 1970 ex. sess., section 5, chapter 106, Laws of 1975-'76 2nd ex. sess., section 5, chapter 136, Laws of 1977 ex. sess. and RCW 41.05.070; and

(9) Section 6, chapter 303, Laws of 1986 and RCW 70.14.010.

NEW SECTION. Sec. 1. (1) The state health care authority shall be established and shall take such steps as are necessary to ensure that this act is fully implemented on October 1, 1988.

There is hereby appropriated for the biennium ending June 30, 1989, the sum of one million three hundred thousand dollars, or as much thereof as is necessary, to the office of the governor from the state employees' insurance administrative account, for the purposes of implementing this subsection.

(2) Subsection (1) of this section and sections 13, 31, 32, and 33 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.

(3) The remainder of this act shall take effect on October 1, 1988.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 16, 1988.
Filed in Office of Secretary of State March 16, 1988.

CHAPTER 108

[Substitute Senate Bill No. 6736]

QUILEUTE, CHEHALIS, AND SWINOMISH TRIBAL LANDS—RETROCESSION OF CRIMINAL JURISDICTION

AN ACT Relating to jurisdiction over tribal lands; amending RCW 37.12.100, 37.12.110, 37.12.120, and 37.12.140; and adding a new section to chapter 37.12 RCW.

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

Sec. 1. Section 2, chapter 267, Laws of 1986 and RCW 37.12.100 are each amended to read as follows:

It is the intent of the legislature to authorize a procedure for the retrocession, to the Quileute Tribe, Chehalis Tribe, Swinomish Tribe, and 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 Quileute, Chehalis, Swinomish, or Colville Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States.

RCW 37.12.100 through 37.12.140 in no way expand the Quileute, Chehalis, Swinomish, or Colville tribe's criminal or civil jurisdiction, if any, over non-Indians or fee title property. RCW 37.12.100 through 37.12.140 shall have no effect whatsoever on water rights, hunting and fishing rights, the established pattern of civil jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, or Colville Indian reservation, the established pattern of regulatory jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, or Colville Indian reservation, taxation, or any other matter not specifically included within the terms of RCW 37.12-.100 through 37.12.140.

Sec. 2. Section 3, chapter 267, Laws of 1986 and RCW 37.12.110 are each amended to read as follows:

Unless the context clearly requires otherwise, the following definitions apply throughout RCW 37.12.100 through 37.12.140:

(1) "Colville reservation," ((~~or~~)) "Colville Indian reservation," "Quileute reservation," or "Quileute Indian reservation," "Chehalis reservation," or "Chehalis Indian reservation," "Swinomish reservation," or "Swinomish Indian reservation" means all tribal lands or allotted lands lying within the ((~~Colville Indian~~)) reservation of the named tribe 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 Colville Indian 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," or "Quileute, Chehalis, or Swinomish tribe" means the confederated tribes of the Colville reservation or the tribe of the Quileute, Chehalis, or Swinomish reservation.

(3) "Tribal court" means the trial and appellate courts of the Colville tribes or the Quileute, Chehalis, or Swinomish tribe.

Sec. 3. Section 4, chapter 267, Laws of 1986 and RCW 37.12.120 are each amended to read as follows:

Whenever the governor receives from the confederated tribes of the Colville reservation or the Quileute, Chehalis, or Swinomish tribe 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 RCW 37.12.021 over lands of ((~~the Colville Indian~~)) that tribe's 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 and the Quileute,

Chehalis, and Swinomish tribes shall not exercise criminal or civil jurisdiction over non-Indians.

Sec. 4. Section 1, chapter 267, Laws of 1986 and RCW 37.12.140 are each amended to read as follows:

RCW 37.12.100 through 37.12.140 may be known and cited as the ((~~Colville~~)) Indian reservation criminal jurisdiction retrocession act.

NEW SECTION. Sec. 5. A new section is added to chapter 37.12 RCW to read as follows:

The state of Washington hereby accepts retrocession from the United States of the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Olympic National Park by 16 U.S.C. Sec. 251e. The lands restored to the Quileute Indian Reservation by Public Law 94-578 shall be subject to the same Washington state and tribal jurisdiction as all other lands within the Quileute Reservation.

Passed the Senate February 15, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 109

[Substitute House Bill No. 1366]
JUDGES—RETIREMENT BENEFITS

AN ACT Relating to retirement benefits for judges of the state supreme court, court of appeals and superior courts; amending RCW 2.10.030, 2.10.040, 2.10.100, 2.10.140, 41.40.690, 2.56.030, 41.04.445, and 41.40.120; adding new sections to chapter 2.10 RCW; adding new sections to chapter 41.40 RCW; adding a new chapter to Title 2 RCW; repealing RCW 2.10-.150 and 2.10.160; and providing an effective date.

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

Sec. 1. Section 3, chapter 267, Laws of 1971 ex. sess. and RCW 2.10-.030 are each amended to read as follows:

(1) "Retirement system" means the "Washington judicial retirement system" provided herein.

(2) "Judge" means a person elected or appointed to serve as judge of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW. Said word shall not include a person serving as a judge pro tempore.

(3) "Retirement board" means the "Washington judicial retirement board" established herein.

(4) "Surviving spouse" means the surviving widow or widower of a judge. The word shall not include the divorced spouse of a judge.

(5) "Retirement fund" means the "Washington judicial retirement fund" established herein.

(6) "Beneficiary" means any person in receipt of a retirement allowance, disability allowance or any other benefit described herein.

(7) "Monthly salary" means the monthly salary of the position held by the judge.

(8) "Service" means all periods of time served as a judge, as herein defined. Any calendar month at the beginning or end of a term in which ten or more days are served shall be counted as a full month of service: PROVIDED, That no more than one month's service may be granted for any one calendar month. Only months of service will be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Years of service shall be determined by dividing the total months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(9) "Final average salary" means (a) for a judge in service in the same court for a minimum of twelve consecutive months preceding the date of retirement, the salary attached to the position held by the judge immediately prior to retirement; (b) for any other judge, the average monthly salary paid over the highest twenty-four month period in the last ten years of service.

(10) "Retirement allowance" for the purpose of applying cost of living increases or decreases shall include retirement allowances, disability allowances and survivorship benefit.

(11) "Index" shall mean for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred) —— compiled by the bureau of labor statistics, United States department of labor.

(12) "Accumulated contributions" means the total amount deducted from the judge's monthly salary pursuant to RCW 2.10.090, together with the regular interest thereon from the effective date of this section, as determined by the director of the department of retirement systems.

Sec. 2. Section 4, chapter 267, Laws of 1971 ex. sess. as amended by section 1, chapter 37, Laws of 1984 and RCW 2.10.040 are each amended to read as follows:

The Washington judicial retirement system is hereby created for judges appointed or elected under the provisions of chapters 2.04, 2.06, and 2.08 RCW. All judges first appointed or elected to the courts covered by these chapters on or after August 9, 1971, and prior to the effective date of this 1988 section, shall be members of this system: PROVIDED, That following February 23, 1984, and until the effective date of this 1988 section, any newly elected or appointed judge holding credit toward retirement benefits under chapter 41.40 RCW shall be allowed thirty days from the effective date of election or appointment to such judgeship to make an irrevocable choice filed in writing with the department of retirement systems to continue coverage under that chapter and to be permanently excluded from coverage under this chapter for the current or any future term as a judge. All judges first appointed or elected to the courts covered by these chapters on

or after the effective date of this 1988 section shall not be members of this system, but may become members of the public employees' retirement system under chapter 41.40 RCW on the same basis as other elected officials as provided in RCW 41.40.120(3).

Any member of the retirement system who is serving as a judge as of the effective date of this 1988 section has the option on or before December 31, 1989, of becoming a member of the retirement system created in chapter 41.40 RCW, subject to the conditions imposed by section 5 of this 1988 act. The option may be exercised by making an irrevocable choice filed in writing with the department of retirement systems to be permanently excluded from this system for all service as a judge. In the case of a former member of the retirement system who is not serving as a judge on the effective date of this 1988 section, the written election must be filed within one year after reentering service as a judge.

Sec. 3. Section 10, chapter 267, Laws of 1971 ex. sess. and RCW 2.10.100 are each amended to read as follows:

Retirement of a member for service shall be made by the retirement board as follows:

(1) Any judge who, on August 9, 1971 or within one year thereafter, shall have completed as a judge the years of actual service required under chapter 2.12 RCW and who shall elect to become a member of this system, shall in all respects be deemed qualified to retire under this retirement system upon his written request.

(2) Any member who has completed fifteen or more years of service ((~~and has attained the age of sixty years~~)) may be retired upon his written request but shall not be eligible to receive a retirement allowance until the member attains the age of sixty years.

(3) Any member who attains the age of seventy-five years shall be retired at the end of the calendar year in which he attains such age.

(4) Any judge who involuntarily leaves service at any time after having served an aggregate of twelve years shall be eligible to a partial retirement allowance computed according to RCW 2.10.110 and shall receive this allowance upon the attainment of the age of sixty years and fifteen years after the beginning of his judicial service.

NEW SECTION. Sec. 4. A new section is added to chapter 2.10 RCW to read as follows:

Any person receiving retirement benefits from this system who is appointed or elected to a court under chapter 2.04, 2.06, or 2.08 RCW shall upon the first day of entering such office become a member of this system and his or her retirement benefits shall cease. Pro tempore service as a judge of a court of record shall not constitute appointment as that term is used in this section. Upon leaving such office, a person shall have his or her benefits recomputed or restored, as determined in this chapter: PROVIDED, That

no such person shall receive a benefit less than that which was being paid at the time his or her benefit ceased.

NEW SECTION. Sec. 5. A new section is added to chapter 41.40 RCW to read as follows:

(1) Any member of the Washington judicial retirement system who wishes to transfer such membership to the retirement system provided for in this chapter shall file a written request with the director as required by RCW 2.10.040 on or before December 31, 1989, or within one year after reentering service as a judge.

Upon receipt of such request, the director shall transfer from the judicial retirement system to this retirement system: (a) An amount equal to the employee and employer contributions the judge would have made if the judge's service under chapter 2.10 RCW had originally been earned under this chapter, which employee contributions shall be credited to the member's account established under this chapter; and (b) a record of service credited to the member. The judge's accumulated contributions that exceed the amount credited to the judge's account under this subsection shall be deposited in the judge's retirement account created pursuant to chapter 2.— RCW (sections 12 through 22 of this act).

(2) The member shall be given year–for–year credit for years of service, as determined under RCW 2.10.030(8), earned under the judicial retirement system. Service credit granted under the judicial retirement system pursuant to RCW 2.10.220 shall not be transferred under this section. The director instead shall reverse the transfer of contributions and service credit previously made under RCW 2.10.220 and shall credit the member for such periods of service and contributions under this chapter as though no transfer had ever occurred.

(3) All employee contributions transferred pursuant to this section shall be treated the same as other employee contributions made under this chapter.

NEW SECTION. Sec. 6. A new section is added to chapter 41.40 RCW to read as follows:

A former member of the Washington judicial retirement system who: (1) Is not serving as a judge on the effective date of this section; (2) has not retired under the applicable provisions of chapter 2.10 RCW; and (3) subsequently reacquires membership in the public employees' retirement system may, by written request filed with the director of retirement systems, transfer to the public employees' retirement system all periods of time served as a judge, as defined in RCW 2.10.030(2). Upon such membership transfer being made, the department of retirement systems shall transfer the employer contributions and the employee's contributions and service from the judicial retirement system to the public employees' retirement system. The

service shall be transferred and credited to the member as though the service was originally earned as a member of the public employees' retirement system.

Sec. 7. Section 14, chapter 267, Laws of 1971 ex. sess. as amended by section 2, chapter 37, Laws of 1984 and RCW 2.10.140 are each amended to read as follows:

(1) A surviving spouse of any judge holding such office, or if he dies after having retired and who, at the time of his death, has served ten or more years in the aggregate, shall receive a monthly allowance equal to fifty percent of the retirement allowance the retired judge was receiving, or fifty percent of the retirement allowance the active judge would have received had he been retired on the date of his death, but in no event less than twenty-five percent of the final average salary that the deceased judge was receiving: PROVIDED, That said surviving spouse had been married to the judge for a minimum of two years at time of death((: ~~AND PROVIDED FURTHER, That if the surviving spouse remarries all benefits under this chapter shall cease~~)).

(2) A judge holding office on the effective date of this 1988 section may make an irrevocable choice to relinquish the survivor benefits provided by this section in exchange for the survivor benefits provided by sections 8 and 9 of this 1988 act by indicating the choice in a written declaration submitted to the department of retirement systems by December 31, 1988.

(3) The surviving spouse of any judge who died in office after January 1, 1986, but before the effective date of this 1988 section may elect to receive the survivor benefit provided in section 8(1) of this 1988 act.

NEW SECTION. Sec. 8. A new section is added to chapter 2.10 RCW to read as follows:

(1) If a judge dies before the date of retirement, the amount of the accumulated contributions standing to the judge's credit at the time of death shall be paid to such person or persons, having an insurable interest in the judge's life, as the judge has nominated by written designation duly executed and filed with the department of retirement systems. If there is no such designated person or persons still living at the time of the judge's death, or if the judge fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, the judge's credited accumulated contributions shall be paid to the surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the judge's legal representatives.

(2) Upon the death in service of any judge who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the

payment provided by subsection (1) of this section. Upon such an election, option II of section 9 of this act shall automatically be given effect as if selected for the benefit of the surviving spouse or dependent who is the designated beneficiary, except that if the judge is not then qualified for a service retirement allowance, the option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased judge would have first qualified for a service retirement allowance. However, subsection (1) of this section, unless elected, shall not apply to any judge who has applied for a service retirement and thereafter dies between the date of separation from service and the judge's effective retirement date, where the judge has selected either option II or III of section 9 of this act. In those cases, the beneficiary named in the judge's final application for service retirement may elect to receive either a cash refund or monthly payments according to the option selected by the judge.

NEW SECTION. Sec. 9. A new section is added to chapter 2.10 RCW to read as follows:

Upon making application for a service retirement allowance under RCW 2.10.100, a judge who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(1) Standard Allowance. A member selecting this option shall receive a retirement allowance, which shall be computed as provided in RCW 2.10-.110. The retirement allowance shall be payable throughout the judge's life. However, if the judge dies before the total of the retirement allowance paid to the judge equals the amount of the judge's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the judge's life, as the judge has nominated by written designation duly executed and filed with the department of retirement systems or, if there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse or, if there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(2) Option II. A judge who selects this option shall receive a reduced retirement allowance which upon death shall be continued throughout the life of and paid to such person, having an insurable interest in the judge's life, as the judge has nominated by written designation duly executed and filed with the department of retirement systems at the time of retirement.

(3) Option III. A judge who selects this option shall receive a reduced retirement allowance and upon death, one-half of the judge's reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the judge's life, as the judge has

nominated by written designation duly executed and filed with the department of retirement systems at the time of retirement.

NEW SECTION. Sec. 10. A new section is added to chapter 2.10 RCW to read as follows:

No judge shall be eligible to receive the judge's monthly service or disability retirement allowance if the retired judge is performing service for any nonfederal public employer in this state. However, a retired judge may render up to ninety days of pro tempore service per year as a judge of a court of record before the judge's allowance shall be reduced on a pro rata basis pursuant to this section.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department.

Sec. 11. Section 10, chapter 295, Laws of 1977 ex. sess. as amended by section 2, chapter 379, Laws of 1987 and RCW 41.40.690 are each amended to read as follows:

No retiree under the provisions of RCW 41.40.610 through 41.40.740 shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state. A retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.120(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town. However, a retired judge may render up to ninety days of pro tempore service per year as a judge of a court of record before the judge's allowance shall be reduced on a pro rata basis pursuant to this section.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department.

NEW SECTION. Sec. 12. (1) The purpose of this chapter is to provide a supplemental retirement benefit to judges who are elected or appointed under chapter 2.04, 2.06, or 2.08 RCW and who are members of the public employees' retirement system for their service as a judge.

(2) This chapter may be known and cited as the judicial retirement account act.

NEW SECTION. Sec. 13. The definitions in this section apply throughout this chapter.

(1) "Plan" means the judicial retirement account plan.

(2) "Principal account" means the judicial retirement principal account.

(3) "Member" means a judge participating in the judicial retirement account plan.

(4) "Administrative account" means the judicial retirement administrative account.

(5) "Accumulated contributions" means the total amount contributed to a member's account under section 20(1) and (2) of this act, together with any interest and earnings that have been credited to the member's account.

NEW SECTION. Sec. 14. The judicial retirement account plan is established for judges appointed or elected under chapter 2.04, 2.06, or 2.08 RCW and who are members of the public employees' retirement system for their service as a judge.

NEW SECTION. Sec. 15. The administrator for the courts, under the direction of the board for judicial administration, shall administer the plan. The administrator shall:

(1) Deposit or invest contributions to the plan consistent with section 19 of this act;

(2) Credit investment earnings or interest to individual judicial retirement accounts consistent with section 18 of this act;

(3) Keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any judicial retirement accounts created under this chapter;

(4) File an annual report of the financial condition, transactions, and affairs of the judicial retirement accounts. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor; and

(5) Adopt rules necessary to carry out this chapter.

NEW SECTION. Sec. 16. The administrator for the courts shall be deemed to stand in a fiduciary relationship to the members participating in the plan and shall discharge his or her duties in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

NEW SECTION. Sec. 17. The judicial retirement principal account is created in the state treasury. Any deficiency in the judicial retirement administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be transferred to that account from the principal account.

The contributions under section 19 of this act shall be paid into the principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the administrator for the courts. The principal account shall be used to carry out the purposes of this chapter.

NEW SECTION. Sec. 18. The judicial retirement administrative account is created in the state treasury. All expenses of the administrator for the courts under this chapter, including staffing and administrative expenses, shall be paid out of the administrative account. Notwithstanding

RCW 43.84.090, all earnings of investments of balances in the administrative account shall be credited to this account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be expended to the principal account. Any deficiency in the administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the principal account.

NEW SECTION. Sec. 19. (1) The administrator for the courts shall:

(a) Deposit or invest the contributions under section 20 of this act in a credit union, savings and loan association, bank, or mutual savings bank;

(b) Purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or investment company licensed to contract business in this state; or

(c) Invest in any of the class of investments described in RCW 43.84.150.

(2) The state investment board, at the request of the administrator for the courts, may invest moneys in the principal account in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the principal account. The earnings on any surplus balances in the principal account shall be credited to the principal account, notwithstanding RCW 43.84.090.

NEW SECTION. Sec. 20. The plan shall be funded as provided in this section.

(1) Two and one-half percent shall be deducted from each member's salary.

(2) The state, as employer, shall contribute an equal amount on a monthly basis.

(3) The contributions shall be collected by the administrator for the courts and deposited in the member's account within the principal account.

NEW SECTION. Sec. 21. (1) A member who separates from judicial service for any reason is entitled to receive a lump sum distribution of the member's accumulated contributions. The administrator for the courts may adopt rules establishing other payment options, in addition to lump sum distributions, if the other payment options conform to the requirements of the federal internal revenue code.

(2) The right of a person to receive a payment under this chapter and the moneys in the accounts created under this chapter are exempt from any state, county, municipal, or other local tax and are not subject to execution, garnishment, or any other process of law whatsoever.

NEW SECTION. Sec. 22. If a member dies, the amount of the accumulated contributions standing to the member's credit at the time of the

member's death shall be paid to such person or persons having an insurable interest in the member's life as the member has nominated by written designation duly executed and filed with the office of the administrator for the courts. If there is no such designated person or persons still living at the time of the member's death, the member's accumulated contributions shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the member's legal representatives.

Sec. 23. Section 3, chapter 259, Laws of 1957 as last amended by section 6, chapter 363, Laws of 1987 and RCW 2.56.030 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system;

(10) Submit annually, as of February 1st, to the chief justice and the judicial council, a report of the activities of the administrator's office for the preceding calendar year;

(11) Administer programs and standards for the training and education of judicial personnel;

(12) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration and the judicial council, both of which shall make recommendations to the legislature by January 1, 1989. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective; ((~~and~~))

(13) Provide staff to the judicial retirement account plan under chapter 2.— RCW (sections 12 through 22 of this 1988 act); and

(14) Attend to such other matters as may be assigned by the supreme court of this state.

Sec. 24. Section 2, chapter 227, Laws of 1984 as amended by section 2, chapter 13, Laws of 1985 and RCW 41.04.445 are each amended to read as follows:

(1) This section applies to all members without exception who are:

(a) Judges under the retirement system established under chapter 2.10 or 2.12 RCW or chapter 2.— RCW (sections 12 through 22 of this 1988 act);

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) Section 20 of this 1988 act;

(d) RCW 41.32.260(2);

((~~(d)~~)) (e) RCW 41.32.350;

((~~(e)~~)) (f) RCW 41.32.775;

((~~(f)~~)) (g) RCW 41.40.330 (1) and (3);

((~~(g)~~)) (h) RCW 41.40.650; and

(((~~(h)~~))) (i) RCW 43.43.300.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems.

Sec. 25. Section 13, chapter 274, Laws of 1947 as last amended by section 1, chapter 379, Laws of 1987 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) (a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's

obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office in a town or city who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official of a town or city. A member who receives more than ten thousand dollars per year in compensation for his or her elective service is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan created under chapter 2.— RCW (sections 12 through 22 of this 1988 act); or (b) 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 April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

NEW SECTION. Sec. 26. Sections 12 through 22 of this act shall constitute a new chapter in Title 2 RCW.

NEW SECTION. Sec. 27. This act shall take effect July 1, 1988.

NEW SECTION. Sec. 28. The following acts or parts of acts are each repealed:

(1) Section 15, chapter 267, Laws of 1971 ex. sess., section 1, chapter 119, Laws of 1973 1st ex. sess. and RCW 2.10.150; and

(2) Section 16, chapter 267, Laws of 1971 ex. sess. and RCW 2.10-.160.

Passed the House March 9, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 110

[House Bill No. 1330]

PUBLIC EMPLOYEES' COLLECTIVE BARGAINING—REFERENCES CORRECTED AND CLARIFIED

AN ACT Relating to changing statutory references to classes of public employees; and amending RCW 41.56.460, 41.56.475, and 41.56.495.

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

Sec. 1. Section 5, chapter 131, Laws of 1973 as last amended by section 2, chapter 521, Laws of 1987 and RCW 41.56.460 are each amended to read as follows:

In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in RCW 41.56.030((~~(6)~~)) (7)(a) and ((~~(c)~~)) 41.56.495, comparison of the wages, hours and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030((~~(6)~~))(7)(b), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers shall not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

Sec. 2. Section 3, chapter 135, Laws of 1987 and RCW 41.56.475 are each amended to read as follows:

In addition to the classes of employees listed in RCW 41.56.030((~~(6)~~)) (7), the provisions of RCW 41.56.430, 41.56.440, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator shall not consider wages and wage-related matters.

(2) The services of the mediator, including any per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this section shall be construed to prohibit the public employer and a bargaining representative from agreeing to substitute at their own expense some other mediator or mediation procedure.

(3) If the public employer and a bargaining representative are unable to reach an agreement in mediation, either party, by written notice to the other party and to the commission, may request that the matters in dispute be submitted to a fact-finder for recommendations. If the executive director, upon the recommendation of the mediator, finds that the parties remain at an impasse after a reasonable period of negotiations, the executive director shall initiate fact-finding proceedings.

(a) The executive director shall provide the parties with a list of five persons qualified to serve as the neutral fact-finder. The parties shall without delay attempt to agree upon a fact-finder from the list provided by the commission or to agree upon some other person as a fact-finder. Upon the failure of the parties to agree upon a fact-finder within seven days after the issuance of the list, the commission shall, upon the request of either party, appoint a fact-finder. The commission shall not appoint as fact-finder the same person who acted as mediator in the dispute.

(b) The fact-finder shall promptly establish a date, time, and place to meet with the representatives of the parties and shall provide reasonable notice of the meeting to the parties to the dispute. The requirements of chapter 34.04 RCW shall not apply to fact-finding proceedings. The fact-finder shall make inquiries and investigations, hold hearings, and take such other steps as he or she deems appropriate. The fact-finder may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

(c) The fact-finder shall, within thirty days following the conclusion of the hearing, make written findings of fact and written recommendations to the parties as to how their dispute should be resolved. A copy shall be delivered or mailed to each of the parties to the dispute. A copy shall be filed with the commission. The findings and recommendations of the fact-finder are advisory only.

(d) The findings and recommendations of the fact-finder shall be held in confidence among the fact-finder, the public employer, the bargaining representative, and the commission for seven calendar days following their issuance, to permit the public employer and the bargaining representative to study the recommendations. No later than seven calendar days following the issuance of the recommendations of the fact-finder, each party shall notify the commission and the other party whether it accepts or rejects, in whole or in part, the recommendations of the fact-finder. If the parties remain in disagreement following the expiration of the seven-day period, the findings and recommendations of the fact-finder may be made public.

(e) The fees and expenses of the fact-finder shall be paid by the parties to the dispute, in equal amounts. All other costs of the proceeding shall be paid by the party incurring those costs. Nothing in this section prohibits an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, some other impasse procedure or from agreeing to some other allocation of the costs of fact-finding between them.

Sec. 3. Section 1, chapter 150, Laws of 1985 and RCW 41.56.495 are each amended to read as follows:

In addition to the classes of employees listed in RCW 41.56.030((~~(6)~~)) (7), the provisions of RCW 41.56.430 through 41.56.490 shall also be applicable to the several classes of advanced life support technicians that are

defined under RCW 18.71.200, who are employed by public employers, other than public hospital districts.

Passed the House January 25, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 111

[Engrossed House Bill No. 1543]

EMERGENCY MEDICAL TECHNICIANS—RECERTIFICATION

AN ACT Relating to emergency medical technicians; and amending RCW 18.73.081.

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

Sec. 1. Section 7, chapter 214, Laws of 1987 and RCW 18.73.081 are each amended to read as follows:

In addition to other duties prescribed by law, the secretary shall:

(1) Prescribe minimum requirements for:

(a) Ambulance, air ambulance, and aid vehicles and equipment;

(b) Ambulance and aid services; and

(c) Emergency medical communication systems;

(2) Prescribe minimum standards for first responder and emergency medical technician training including:

(a) Adoption of curriculum and period of certification;

(b) Procedures for certification, recertification, decertification, or modification of certificates: PROVIDED, That there shall be no practical examination for recertification if the applicant received a passing grade on the state written examination and completed a program of ongoing training and evaluation, approved in rule by the county medical program director and the secretary;

(c) Procedures for reciprocity with other states or national certifying agencies;

(d) Review and approval or disapproval of training programs; and

(e) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;

(3) Prescribe minimum standards for evaluating the effectiveness of emergency medical systems in the state;

(4) Adopt a format for submission of regional plans;

(5) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and

(6) Certify emergency medical program directors.

Passed the House March 5, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 112

[Engrossed Senate Bill No. 6440]

HAZARDOUS WASTE CLEAN UP--ALTERNATIVE TO INITIATIVE 97

AN ACT Relating to the environment; amending RCW 90.48.460, 90.48.190, and 43-.21B.310; adding a new section to chapter 9A.36 RCW; adding a new section to chapter 34.04 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 70.94 RCW; adding a new section to chapter 70.105 RCW; adding a new section to chapter 90.03 RCW; adding a new section to chapter 90.44 RCW; adding new sections to chapter 90.48 RCW; adding a new section to chapter 90.58 RCW; creating a new chapter in Title 70 RCW; creating a new chapter in Title 82 RCW; adding a new section to chapter 2, Laws of 1987 3rd ex. sess. and to chapter 82.22 RCW; creating new sections; repealing RCW 70.105A.010, 70-.105A.020, 70.105A.030, 70.105A.040, 70.105A.050, 70.105A.060, 70.105A.070, 70.105A.080, 70.105A.090, 70.105A.900, and 70.105A.905; repealing section 65, chapter 2, Laws of 1987 3rd ex. sess. (uncodified); prescribing penalties; making appropriations; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. INTENT. The legislature recognizes that the beneficial stewardship of the land, air, and waters of the state is a solemn obligation of the present generation for the benefit of future generations.

A healthful environment is threatened by numerous hazardous waste sites in this state. The legislature finds that private parties should be provided with encouragement to exercise their responsibility to clean up the sites for which they are responsible, but that if they refuse to do so, then the state should conduct cleanup operations and recover the costs thereof from the private parties. The legislature also finds that there are numerous publicly owned sites that were former solid waste landfills and that because the cost of cleaning those sites frequently exceeds the financial resources of refuse rate payers, state financial assistance is appropriate.

The legislature finds that because it is often difficult or impossible to allocate responsibility among persons liable for hazardous waste sites and because it is essential that sites be cleaned up well and expeditiously, each liable person should be liable jointly and severally.

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

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

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

(3) "Disposal" means the discharge, deposit, injection, release, dumping, spilling, leaking, placing, or allowing to seep of any hazardous substance into or on any land or water.

(4) "Facility" means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft, or (b) any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(5) "Federal cleanup law" means the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

(6) "Hazardous substance" means:

(a) Any dangerous or extremely hazardous waste as defined in RCW 70.105.010(5) and (6), or any dangerous or extremely hazardous waste designated by rule pursuant to chapter 70.105 RCW;

(b) Any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule pursuant to chapter 70.105 RCW;

(c) Any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law;

(d) Any substance or category of substances determined by the director by rule to present a threat to human health or the environment if released into the environment;

(e) Solid waste decomposition products that present a substantial threat to human health or the environment; and

(f) Petroleum and petroleum products.

(7)(a) "Owner or operator" means:

(i) Any person with any ownership interest in the facility or who exercises any control over the facility; or

(ii) In the case of an abandoned facility, any person who had owned, operated, or exercised control over the facility any time before its abandonment.

(b) The term "owner or operator" does not include:

(i) An agency of the state or unit of local government that acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title; or

(ii) A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility; or

(iii) A person who holds a security interest in a facility, or who as a result of the interest acquires ownership or control of a facility, where the

security interest was created to secure the repayment of value extended solely for the purpose of remedial action costs, and the value actually has been or will be applied to that purpose; or

(iv) A person, including, but not limited to, a bank, savings and loan association, savings bank, credit union or insurance company, which, while holding a security interest in a facility and pursuant to such interest, exercises or has exercised control consistent with ordinary and customary lending practices, but such control shall not include operation of the facility or assumption of business decisions of the facility.

(c) Paragraph (b) of this subsection does not apply to a person who has caused or contributed to the release or threatened release of a hazardous substance from the facility, nor does it apply to any person whom the department finds uses a security interest as a device to avoid liability under this chapter.

(8) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

(9) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under section 4 of this act.

(10) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances. A release of a pesticide for which liability is exempted under section 4(3)(d) of this act shall not be considered hazardous unless, either alone or in conjunction with other releases, the release of the pesticide threatens human health or the environment.

(11) "Remedy" or "remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

NEW SECTION. Sec. 3. DEPARTMENT'S POWERS AND DUTIES. (1) The department may exercise the following powers in addition to any other powers granted by law:

(a) The department may conduct, provide for conducting, or require potentially liable persons to conduct remedial actions to remedy a release or threatened release of a hazardous substance. In carrying out such powers, the department's authorized employees, agents, or contractors or the employees, agents, or contractors of a potentially liable person acting under an approved settlement agreement may enter upon property. In conducting such remedial actions, the department may obtain information and access to

property pursuant to section 11 of this act. In conducting, providing for, or requiring remedial action, the department shall give preference to permanent solutions to the maximum extent practicable and shall provide for or require adequate monitoring to ensure the effectiveness of the remedial action.

(b) The department may carry out all state programs authorized under the federal cleanup law and the Federal Resource, Conservation, and Recovery Act, 42 U.S.C. Sec. 6901 et seq., as amended.

(c) The department may classify substances as hazardous substances for purposes of section 2(6) of this act and classify substances and products as hazardous substances for purposes of section 45 of this act.

(d) The department may take any other actions necessary to carry out the provisions of this chapter, including the adoption of rules under chapter 34.04 RCW. The department may adopt emergency or interim rules where immediate promulgation of rules is necessary to implement this chapter prior to the adoption of final rules.

(e) Prior to adopting rules to carry out this chapter, the department shall facilitate discussions among persons interested in the rule-making and act to mediate differences among such persons in order to achieve to the maximum extent possible consent on the rules.

(2) The department shall immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. Within nine months after the effective date of this section, the department shall adopt rules under chapter 34.04 RCW to:

(a) Establish criteria for determining priorities among hazardous substance sites. These criteria shall assure that sites are ranked by a system that objectively and numerically assesses the relative degree of risk at such sites; and

(b) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site.

(3) Before November 1st of each even-numbered year, the department shall develop, with public notice and hearing, and submit to the ways and means and appropriate standing environmental committees of the senate and house of representatives a ranked list of projects and expenditures recommended for appropriation from both the state and local toxics control accounts. The department shall also provide the legislature and the public each year with an accounting of the department's activities supported by appropriations from the state toxics control account, including a list of known hazardous waste sites and their hazard rankings, actions taken and

planned at each site, how the department is meeting its top two management priorities under RCW 70.105.150, and all funds expended under this chapter.

(4) The department shall establish a scientific advisory board to render advice to the department with respect to the hazard ranking system, cleanup standards, remedial actions, deadlines for remedial actions, monitoring, the classification of substances as hazardous substances for purposes of substances or products as hazardous substances for purposes of section 2(6) of this act. The board shall consist of independent members representing varied interests. No members may be employees of the department. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The department shall establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

(6) The department, with the assistance of the department of revenue, shall by December 1, 1991, submit to the legislature a report on the status of the cleanup program authorized by this chapter to include at a minimum the following:

(a) The amount of tax and other revenues generated and anticipated to be generated to fund the program, with a recommendation, if any, for revision of the taxing mechanism;

(b) An accounting of all expenditures made pursuant to this chapter, including a description of remedial actions in progress; each program, activity or remedial action funded and the amount of funding provided; and

(c) Projections of the need for funds for future remedial actions.

NEW SECTION. Sec. 4. STANDARD OF LIABILITY. (1) Except as provided in subsection (3) of this section, the following persons are liable with respect to a facility:

(a) The owner or operator of the facility;

(b) Any person who owned or operated the facility at the time of disposal or release of the hazardous substance;

(c) Any person who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substance at the facility, or arranged with a transporter for transport for disposal or treatment of the hazardous substance at the facility, or otherwise generated hazardous waste disposed of or treated at the facility;

(d) Any person (i) who accepts or accepted any hazardous substance for transport to a disposal, treatment, or other facility selected by the person, from which facility there is a release or a threatened release for which remedial action is required, unless the facility, at the time of disposal or treatment, could legally receive the substance; or (ii) who accepts a hazardous substance for transport to such a facility and has reasonable grounds to

believe that the facility is not operated in accordance with chapter 70.105 RCW; and

(e) Any person who both sells a hazardous substance and is responsible for written instructions for its use if (i) the substance is used according to the instructions and (ii) the use constitutes a release for which remedial action is required at the facility.

(2) Each person who is liable under this section is strictly liable, jointly and severally, for all remedial action costs at or associated with the facility and for all natural resource damages resulting from the releases or threatened releases of hazardous substances. The attorney general, at the request of the department, may recover all costs and damages from persons liable for them.

(3) The following persons are not liable under this section:

(a) Any person who can establish that the release or threatened release of a hazardous substance for which the person would be otherwise liable was caused solely by:

(i) An act of God;

(ii) An act of war; or

(iii) An act or omission of a third party (including but not limited to a trespasser) other than (A) an employee or agent of the person asserting the defense, or (B) any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the person asserting this defense to liability. This defense applies only where the person asserting the defense has exercised the utmost care with respect to the hazardous substance, the foreseeable acts or omissions of the third party, and the foreseeable consequences of those acts or omissions;

(b) Any person who is an owner, past owner, or purchaser of a facility and who can establish by a preponderance of the evidence that at the time the facility was acquired by the person, the person had no knowledge or reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for the remedial action, was released or disposed of on, in, or at the facility. This paragraph (b) is limited as follows:

(i) To establish that a person had no reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property, consistent with good commercial or customary practice in an effort to minimize liability. Any court interpreting this paragraph (b) shall take into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection;

(ii) The defense contained in this paragraph (b) is not available to any person who had actual knowledge of the release or threatened release of a hazardous substance when the person owned the real property and who subsequently transferred ownership of the property without first disclosing such knowledge to the transferee;

(iii) The defense contained in this paragraph (b) is not available to any person who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance at the facility;

(c) Any person who uses a hazardous substance lawfully and without negligence for any personal or domestic purpose in or near a dwelling or accessory structure when that person is: (i) A resident of the dwelling; (ii) a person who assists the resident in the use of the substance; or (iii) a person who is employed or retained by the resident;

(d) Any person who, without negligence and in accordance with all federal and state laws, applies pesticides or fertilizers for any of the following purposes: (i) Producing any crops, farm animals, or any other farm product; (ii) growing Christmas trees; (iii) growing any nursery plant; or (iv) growing trees, including trees for the production of timber. This exemption also extends to any owner of land leased to such person and an applicator with whom such person enters into a contract for the application of the pesticides or fertilizers, so long as the application is without negligence and is in accordance with all federal and state laws. This exemption does not apply to aquaculture; or

(e) Any person with respect to the release or threatened release of used motor oil collected by the person for recycling, if the oil (i) is not mixed with any other hazardous substance; and (ii) is collected, stored, and maintained by the person in compliance with all federal and state laws and without negligence. Unless the person has reason to believe the contrary, it shall be presumed that used motor oil that has been removed from a vehicle by the owner and delivered to the person for recycling has not been mixed with any other hazardous substance.

(4) Nothing in this chapter affects or modifies in any way any person's right to seek or obtain relief under other statutes or under common law, including but not limited to damages for injury or loss caused by a hazardous substance. No settlement by the department or remedial action ordered by a court or the department affects any person's right to obtain a remedy under common law or other statutes.

NEW SECTION. Sec. 5. PETROLEUM. (1) Petroleum, including crude oil or any fraction thereof, is covered only by the provisions of subsection (2) of this section and section 11(2) of this act, and by no other provisions of this chapter, unless:

(a) It is an extremely hazardous waste under chapter 70.105 RCW; or

(b) It is a hazardous substance under section 2(6)(c) or (c) of this act.

(2) The department may investigate, respond to, and order or initiate cleanup of spills, leaks, or discharges covered only by this subsection. The department may recover its costs incurred in exercising its powers under this section and any natural resource damages caused by the releases from any person owning or controlling the material released, or from any person otherwise responsible for the releases, and the persons are strictly liable, jointly and severally, for such costs and damages.

(3) This section expires on July 1, 1990, unless before that date legislation is enacted into law providing a comprehensive cleanup program for releases of petroleum (including crude oil or any fraction thereof) from storage tanks and specific funding sources for the program.

NEW SECTION. Sec. 6. CLEANUP STANDARDS. (1) The department shall select those actions that will attain a degree of cleanup that is protective of human health and the environment.

(2) Each remedial action approved by the department shall attain cleanup levels set by the department. Such levels shall include:

(a) With respect to each hazardous substance, a cleanup that, at a minimum, meets the substantive requirements of all applicable state and federal laws, regulations, and rules;

(b) With respect to hazardous substances for which no applicable state or federal law, regulation, or rule exists, the department shall set the cleanup level on a case-by-case basis in order to prevent potential harm to human health and the environment. In making this determination the department may refer to state and federal laws, regulations, rules, and criteria relevant and appropriate to this determination;

(c) With respect to each hazardous substance, where the proponents of a proposed remedial action demonstrate to the department by clear and convincing evidence that an alternative to cleanup levels established under (a) of this subsection would assure protection of human health and the environment, the department may allow a deviation from those cleanup levels.

NEW SECTION. Sec. 7. VOLUNTARY CLEANUPS. (1) Whenever the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, it shall notify potentially liable persons with respect to the release or threatened release, and provide them with a reasonable opportunity to propose a settlement agreement providing for remedial action. Whenever the department considers it to be in the public interest, the department shall expedite such an agreement with parties whose contribution of hazardous substances is insignificant in amount and toxicity.

(2) Within nine months after the effective date of this section, the department shall adopt rules under chapter 34.04 RCW to implement this section. At a minimum the rules shall:

(a) Provide procedures by which potentially liable persons may propose one or more remedial actions;

(b) Provide procedures for public notice and an opportunity to comment on proposed settlements;

(c) Establish reasonable deadlines and time periods for activities under this subsection; and

(d) Ensure that agreements providing for voluntary cleanups attain the cleanup levels required under section 6 of this act.

(3) Where the department and one or more potentially liable persons are unable to reach agreement for remedial action that will provide a final cleanup remedy, the persons may submit a final offer of a proposed settlement agreement, together with any material supporting the proposal. The department shall consider the offer and material submitted, as well as public comments provided on the offer, and shall issue a decision accepting or rejecting the offer. Where the department accepts the offer, it shall be entered as a consent decree pursuant to the procedures of subsection (5) of this section. Where the department rejects the offer, it shall state in writing its reasons for rejection. This review process shall not be considered a contested case for the purpose of the administrative procedure act, chapter 34-.04 RCW.

(4) The person or persons proposing an agreement rejected by the department under subsection (3) of this section have a right to review only as provided in section 13 of this act.

(5) Where the department and potentially liable persons reach an agreement providing for voluntary remedial action, it shall be filed with the appropriate superior court as a proposed consent decree. The court shall allow at least thirty days for public comments before the proposed decree is entered, and the department shall file with the court any written comments received on the proposed decree.

(6) A person who has resolved its liability to the state under this section is not liable for claims for contribution regarding matters addressed in the settlement. The settlement does not discharge any of the other potentially liable persons, but it reduces the total potential liability of the others to the state by the amount of the settlement.

(7) The director may enter into a settlement agreement that requires the department to provide a specified amount of money from the state toxics control account to help defray the costs of implementing the plan. These funds may be provided only in circumstances where the director finds it would expedite or enhance cleanup operations or achieve greater fairness with respect to the payment of remedial action costs. In determining whether public funding will achieve greater fairness, the director shall consider the extent to which public funding will prevent or mitigate economic hardship. The director shall adopt rules providing criteria and priorities governing public funding of remedial action costs under this subsection. The amount of public funding in an agreement under this section shall be determined solely in the discretion of the director and is not subject to review.

The department may recover the amount of public funding provided under this subsection from a potentially liable person who has not entered into a settlement agreement under this section or fulfilled all obligations under the agreement. For purposes of such a recovery action, the amount shall be considered as remedial action costs paid by the department.

NEW SECTION. Sec. 8. COVENANTS NOT TO SUE. (1) As a part of a settlement agreement accepted by the department, the director shall provide a covenant not to sue with respect to any remedial action that is required by the agreement and that will accomplish any of the following:

(a) Treatment of hazardous substances so as to destroy, eliminate, or permanently immobilize the hazardous constituents of the substances so that the substances, or any byproducts of the treatment or destruction process, no longer present any foreseeable future significant risk to human health or welfare or the environment; or

(b) When such destruction, elimination, or permanent immobilization is not practicable, the transportation of the hazardous substances from the site to an approved hazardous waste disposal facility meeting the requirements of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6924 and 6925, as amended as of the effective date of this section, and, if the substances are disposed of in this state, the rules of the department adopted pursuant to chapter 70.105 RCW for permanent disposal facilities; or

(c) Cleanup levels that have been set only under section 6(2)(a) of this act.

(2) (a) As a part of a settlement agreement with the department, the director may provide a covenant not to sue with respect to any remedial action if the cleanup levels have been established under section 6(2)(b) of this act, and if the covenant not to sue is determined by the director to be in the public interest.

(b) In making the determination of public interest the director shall consider the following factors:

(i) Whether the benefits from the expedition of the voluntary remedial action caused by the issuance of a covenant not to sue would exceed the potential future risk to human health and public finances caused by such issuance;

(ii) The nature of the risks that might remain at the facility;

(iii) The extent to which the remedial action is based on attainment of performance standards based on objective criteria for releases of substances to, or the presence of substances in, land, air, or water;

(iv) Whether the state toxics control account or sources of funding other than state general funds would be available for any additional remedial action that might eventually be necessary at the facility;

(v) Whether the monitoring and maintenance required at the site, if any, will protect human health and the environment; and

(vi) The extent to which the technology used in the remedial action is demonstrated to be effective.

(3) As a part of a settlement agreement with the department, the director may provide a covenant not to sue with respect to any remedial action taken if the cleanup level or levels have been established under section 6(2)(c) of this act and if:

(a) The director has determined that issuing the covenant is in the public interest as defined in subsection (2)(b) of this section;

(b) Compliance with the otherwise applicable standards is technically impracticable from an engineering perspective; and

(c) The remedial action provides optimum protection of human health and the environment.

(4) A "covenant not to sue" means a promise by the state of Washington, made with respect to a particular hazardous substance or a particular area, the cleaning up of which has been the purpose of a previous remedial action undertaken by the potentially liable person at the direction of the department and with the approval of the department. A covenant shall be commensurate with and strictly limited to the scope of the previous remedial action. In issuing the covenant, the state promises that, with respect to that substance or area, it will not initiate any future administrative or judicial action to force the potentially liable person to clean up, pay the expenses for cleaning up, conduct any investigations, or pay the expenses for any investigations. As used in this subsection, the word "investigations" does not include any monitoring or maintenance activities required under a covenant.

(5) A covenant may be issued with respect to all remedial actions included under a settlement agreement, or may be issued for one or more particular remedial actions included under a settlement agreement. If the remedial action is for cleaning up a particular hazardous substance, then the covenant does not extend to other hazardous substances. A covenant issued for a remedial action for cleaning up a particular hazardous substance shall contain an express reopener clause for the discovery of the release or threatened release of other hazardous substances.

(6) If the remedial action is for cleaning up a particular area, the covenant does not extend to other areas. Notwithstanding any other provision of this section, the issuance of a covenant for a particular area (as opposed to a covenant for a particular hazardous substance) is discretionary with the department, and shall only be issued for a remedial action that the department finds will ensure that (a) there will no longer be any foreseeable future risk in the area to human health or the environment and (b) all hazardous substances in the area are destroyed, eliminated, or permanently immobilized. In issuing an area covenant the department shall take special care to ensure that both the planned remedial action and its implementation conform to this chapter. A covenant issued for a particular area shall contain

an express reopener clause for the discovery of the release or threatened release of hazardous substances outside such area. As used in this section, the term "particular area" means a precisely described three-dimensional area.

(7) The issuance of a covenant not to sue does not affect the power of the state to take whatever actions are necessary, other than those expressly barred by the covenant, to protect members of the public from a health hazard, including, but not limited to, actions to prevent entrance upon the property, to prevent the use of the property for any purpose that exposes anyone to a health hazard, or to enter upon the property and take measures to clean up the hazardous substance. The issuance of a covenant does not affect any power of the state to institute or respond to any tort action or any other judicial or administrative action, so long as the state's action or response is not expressly barred by the covenant. With respect to any action filed against the state, a covenant does not bar the state from filing a cross-claim, counterclaim, or third party action against any person who may be liable or from seeking contribution from the person, so long as the damages or relief sought by the state in filing the cross-claim, counterclaim, or third party action is not expressly barred by the covenant.

(8) The director, with the concurrence of the attorney general, shall incorporate any covenant to be issued into the settlement agreement. The director's denial of a covenant meeting the requirements of subsection (1) of this section is reviewable under section 13 of this act. The director's denial of a proposed covenant under subsections (2) or (3) of this section is not subject to review. Any covenant not to sue shall be conditioned upon satisfactory performance of the settlement agreement and issuance of a certificate of completion pursuant to section 9 of this act. A covenant ceases to be conditional and becomes effective on the date of certification of completion of the agreement.

(9) If new information is revealed while implementing a settlement agreement, the potentially liable persons and the department may amend the agreement. If the new information reveals a significant quantity of a hazardous substance or condition not previously identified in the agreement as being present at the site, in an area of the site other than that described in the agreement, or in quantities significantly greater than as described in the agreement, then the agreement shall be amended. If a proposed amendment is to be incorporated into a final consent decree, public notice and opportunity to comment shall be allowed by the court prior to its entry in accordance with section 7(5) of this act. The department shall adopt rules providing a method for amending agreements. The existence of a covenant not to sue having conditional status pursuant to subsection (8) of this section neither bars amendments to settlements nor may be considered in deciding whether or not to amend settlements.

(10) A person receiving a covenant not to sue under this chapter is not relieved of any liability owed to persons, other than the state of

Washington, under any federal, state, or local law, including the common law.

(11) Issuance of a covenant not to sue to a potentially liable person does not relieve or decrease any other person's liability to the state.

NEW SECTION. Sec. 9. CERTIFICATION OF COMPLETION. (1) Upon completion of all remedial actions called for in a settlement agreement, the parties to the agreement may apply for a certificate of completion from the department. The department shall provide notice of an application for certification of completion to interested persons and the public. The notice shall include a brief analysis of the application and indicate where additional information may be obtained. Public comment shall be accepted for a minimum of forty-five days from the date of the notice.

(2) The director shall grant or deny an application for certification of completion within ninety days of the application. If the director finds that the remedial action has been fully implemented, the director shall approve an application for certification of completion.

NEW SECTION. Sec. 10. REMEDIAL ACTION CONTRACTOR LIABILITY. (1) A person who is a remedial action contractor, or a person employed by any public body who provides services relating to remedial action, and who is working within the scope of the person's employment with respect to any release or threatened release of a hazardous substance from a facility, is not liable under this chapter, under any other state or local law, or under common law to any person for injuries, costs, damages, expenses, or other liability, including, but not limited to, claims for indemnification or contribution, and claims by third parties for death, personal injury, illness, or loss of or damage to property or economic loss, that result from the release or threatened release. This subsection does not apply in the case of a release or threatened release that is caused by conduct of the remedial action contractor that is negligent, grossly negligent, or that constitutes intentional misconduct.

(2) Nothing in this section affects the liability of any person under any warranty under state law, or the liability of an employer who is a remedial action contractor to any employee of such employer under any provision of law.

(3) The director may agree to hold harmless and indemnify any remedial action contractor meeting the requirements of this section against any liability, including the expenses of litigation or settlement, for negligence arising out of the contractor's performance in carrying out remedial action activities under this chapter, unless the liability was caused by conduct of the contractor that was grossly negligent or that constituted intentional misconduct. Indemnification under this subsection applies only to remedial action contractor liability that results from a release or threatened release

of a hazardous substance if the release arises out of remedial action activities. An indemnification agreement under this subsection shall include deductibles and shall place limits on the amount of indemnification to be made available.

(4) The exemption provided under subsection (1) of this section and the authority of the director to offer indemnification under subsection (3) of this section do not apply to any person liable under section 4(1) of this act.

(5) A person retained or hired by a potentially liable person is eligible for consideration for indemnification under subsection (3) of this section only if the remedial action is being implemented under an approved settlement agreement.

NEW SECTION. Sec. 11. INVESTIGATION AND ACCESS. (1)(a) If there is a reasonable basis to believe there may be a release or threatened release of a hazardous substance, the director may require information or documents relevant to that release or threatened release from a person who has or may have information relevant to (i) the identification, nature, and volume of materials generated, treated, stored, transported to, or disposed of at a facility and the dates thereof, (ii) the nature or extent of a release or threatened release of a hazardous substance at or from a facility, (iii) the identity of potentially liable persons, or (iv) information relating to the ability of a person to pay for or perform a remedial action. The department may subpoena witnesses, documents, and other information that the department deems necessary. In case of a refusal to obey such a subpoena, the superior court for any county in which the person is found, resides, or transacts business has jurisdiction to issue an order requiring the person to appear before the department and give testimony or produce documents. Any failure to obey such order of the court may be punished by the court as contempt.

(b) Where there is a reasonable basis to believe there may be a release or threatened release of a hazardous substance, the department, its authorized employees, agents, or contractors, or the employees, agents, or contractors of a potentially liable person acting under an approved settlement agreement, upon reasonable notice may enter upon any real property, public or private, to conduct sampling, inspection, examination, and investigation directed at evaluating the release or threatened release and determining the need, if any, for remedial action. In the event of an emergency, no notice need be provided. In conducting those activities, the department or other person gaining access under this section shall take all feasible precautions to avoid disrupting the ongoing operation on the site. The department or other person gaining access under this section shall provide to the owner, operator, or person in charge of the facility, if requested, a portion of each sample taken equal in volume or weight to the portion retained. If any analysis is made of the samples, a copy of the results of the analysis shall be furnished

promptly to the owner, operator, or person in charge as well as to representatives of the public and other interested persons.

(2)(a) If the director determines that: (i) An emergency exists that requires immediate action to protect human health or the environment, and (ii) the owner or operator is unwilling or unable to take such immediate action, the department, its authorized employees, agents, or contractors, or the employees, agents, or contractors of a potentially liable person acting under departmental approval may without court order enter upon property, public or private, or take such remedial action as is necessary to abate the emergency.

(b) If the potentially liable person fails to implement a settlement or if no settlement has been achieved, or for the purpose of carrying out section 5(2) of this act, the director may determine, in accordance with the procedures set forth in this section, that action to respond to a release or threatened release of hazardous substances is necessary and that entry upon real property, public or private, is necessary to execute remedial action. Such entry may be made by the department, its authorized employees, agents, or contractors, or the employees, agents, or contractors of a potentially liable person acting under an approved settlement agreement. The director's determination shall be based upon inspection, study, or other data as may be available, shall be made in writing, and shall be available for public inspection and copying. The department shall supply the person owning, operating, or in charge of the property concerned, as well as all potentially liable persons with (i) a written document detailing the director's determination and the basis for the determination, (ii) a notice that remedial action and entry upon property shall proceed in no fewer than sixty days, and (iii) a request for a prompt response. The director shall confer with any person responding to receipt of service of the director's determination in order to accommodate that person's legitimate concerns while obtaining prompt and necessary remedial action.

(c) The department, with the assistance of the attorney general's office, may apply to superior court for an order authorizing entry upon real property to execute remedial action. The department's application shall (i) state that the notice procedures required in this section have been carried out, (ii) describe the property concerned, and (iii) describe the remedial action selected by the director and the schedule for remedial action. If, after a hearing, the superior court finds that the department's application and supporting materials establish that the department has made a reasonable attempt to accommodate any responding party's legitimate concerns, the superior court shall enter an order authorizing entry upon real property to execute remedial action.

(d) In such proceedings authorized by this subsection, the court may not review (i) the director's determination that remedial action is necessary,

that the entry upon real property is necessary, or the basis for such decisions; or (ii) any response by the director to the potentially liable person's concerns.

(3) The court may not enjoin or otherwise delay any remedial action deemed necessary by the director unless the superior court finds that the person lacks any adequate remedy at law.

NEW SECTION. Sec. 12. ENFORCEMENT. (1) Whenever, in the opinion of the director, a person (a) is potentially liable for a release or threatened release of a hazardous substance, (b) has been notified of its potential liability, but (c) either (i) has not submitted a proposed settlement or (ii) has submitted a proposed settlement, the department has rejected the proposal, and, if appealed, the denial has been affirmed by the superior court, then the director may seek appropriate injunctive or other judicial relief by filing an action in Thurston county superior court or issue such order as the director deems appropriate and serve the person with the order personally or by certified mail.

(2) Whenever the director determines that there exists an imminent danger that requires immediate remedial action to protect human health or the environment, the director may seek such injunctive relief or issue an order without prior notice or opportunity to submit a proposed settlement agreement.

(3) The director may bring an action in Thurston county superior court (a) against any potentially liable person who, without sufficient cause, fails to comply with an order issued under subsection (1) or (2) of this section to enforce the order, or (b) against any liable person to collect remedial action costs incurred by the department.

(4) In any action brought under subsection (3) of this section, the person, if liable, is responsible for:

(a) If the failure to comply with an order is willful, up to three times the amount of any remedial action costs incurred by the state as a result of the party's refusal to comply; and

(b) A civil penalty of up to ten thousand dollars for each day the party refuses to comply.

(5) The director may bring an action in Thurston county superior court to establish and collect a civil penalty for which a person is liable under section 17 of this act.

(6) Any potentially liable person who receives and complies with the terms of an order issued under this section may, within sixty days after completion of the required action, petition the director for reimbursement for any costs of the action for which the person is not liable. If the director refuses to grant all or part of the reimbursement sought, the petitioner may, within thirty days of the date of the refusal, file an action against the department in Thurston county superior court seeking reimbursement. The

judicial review shall be de novo, and the burden is on the department to establish liability.

(7) Before conducting a remedial action, the department may:

(a) Prepare a proposed scope of work based on any investigation or study conducted by or for the department, the potentially liable persons, or others;

(b) Provide the identified potentially liable persons and members of the public with notice of the proposed remedial action and an opportunity to comment on the scope of work proposed;

(c) Prepare a final scope of work based on the comments received and any other study or investigation conducted by or for the department.

(8) The proposed and final scope of work and the basis for them as well as all comments received by the department constitute the record of decision of the department.

(9) Where the department has developed a record of decision for a remedial action and the department has conducted the remedial action in accordance with the record, in any action brought to recover costs, the scope of work of the department shall be presumed reasonable and necessary unless demonstrated to be arbitrary and capricious.

NEW SECTION. Sec. 13. REVIEW OF ECOLOGY DECISIONS. (1) The decisions of the department under this chapter are reviewable only as provided in this section or section 14 of this act.

(2) (a) A potentially liable person aggrieved by a department decision to deny a final offer of a proposed settlement may obtain review by filing a petition in the Thurston county superior court within ten days of receipt of that decision and serving a copy of that petition on the department. The review shall be based upon the administrative record which shall consist of the final offer of proposed settlement, the material submitted in support of that offer, all comments provided on the proposed settlement, the department's response, and all material relied on by the department in making its decision. The department's decision shall not be reversed unless it is clearly erroneous. The court shall hold a hearing upon such petition within thirty days after the department certifies the record to the court. Any person potentially aggrieved may intervene in the review proceeding under this subsection.

(b) If the potentially liable person appeals a superior court decision affirming the decision of the department, then, during the pendency of the appeal, no court may stay or otherwise delay any enforcement order issued or remedial action undertaken by the department.

(3) Any investigative or remedial action decision of the department or decision identifying potentially liable persons is reviewable exclusively in superior court as follows:

(a) In a cost recovery action pursuant to section 4 or 12 of this act;

(b) In a judicial action by the department to compel remedial action pursuant to section 12 of this act;

(c) In an action by a potentially liable person for reimbursement pursuant to section 12 of this act; or

(d) In an action by the department to establish and collect a civil penalty under section 12 of this act.

(4) Any person aggrieved by the granting or denial of a certificate of completion pursuant to section 9 of this act may file a petition for review pursuant to the administrative procedure act, chapter 34.04 RCW, of that decision in Thurston county superior court within thirty days of the department's decision.

NEW SECTION. Sec. 14. THIRD PARTY ACTIONS. (1) Any person may commence a civil action to compel the department to perform any nondiscretionary duty under this chapter. At least thirty days before commencing the action, the person must give notice of intent to sue, unless a substantial endangerment to health or the environment exists.

(2) Any person aggrieved by an action or inactions of a potentially liable person that may result in a release of a hazardous substance that presents an imminent and substantial endangerment to health or the environment may commence a civil action to compel the potentially liable person to comply with this chapter. Before any action may be commenced, the person aggrieved shall mail by certified mail a notice of intent to sue to the director. The director shall be allowed thirty days to negotiate or mediate a resolution to the dispute before any action may be filed.

(3) Any person aggrieved by the release or threatened release of a hazardous substance may commence a civil action against any person who fails to comply with an approved settlement agreement to compel compliance with the agreement.

(4) No action may be commenced under subsection (2) or (3) of this section where:

(a) The department is diligently prosecuting a judicial action or pursuing administrative action under this chapter to force a potentially liable person to respond to the release or threatened release of hazardous substances under this chapter; or

(b) The department is diligently pursuing remedial action against the release of the hazardous substance.

(5) Civil actions under this section may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Nothing in this chapter affects or impairs any person's right under any other statute or under common law to commence a civil action relating to hazardous substances.

NEW SECTION. Sec. 15. LIENS. (1) Any liability to the state under this chapter constitutes a debt to the state. Any such debt constitutes a lien,

in favor of the state, on all real property on which the remedial action was conducted.

(2) The lien imposed by this section arises at the time costs are first incurred by the state with respect to a remedial action under this chapter.

(3) The department shall file a statement of claim, describing the property subject to the lien, in the appropriate office as designated by state law. The lien continues until the liability for the costs have been satisfied. Any lien filed pursuant to this section shall be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is perfected in accordance with law before notice of the state lien is filed.

NEW SECTION. Sec. 16. PROPERTY——RECORDS——SALE. (1) The owner of public or private nonresidential real property upon which a release of a significant quantity of a hazardous substance has been found by the department to have occurred shall place a notice in the records of real property kept by the auditor of the county in which the property is located. The notice shall: (a) Identify the property; (b) identify the owner of the property and the person causing the notice to appear; (c) state that a release of a hazardous substance occurred on the property; (d) state the date the release occurred; and (e) direct further inquiries to the department. The department shall maintain records that identify the remedial action taken and the hazardous substance or substances released for each remedial action that has been conducted or approved by the department. Any person with an interest in the property, injured by the failure of a property owner to comply with this section, may recover damages for that injury by filing an action in superior court for the county in which the release occurred.

(2) Where the department has discovered the release of a significant quantity of a hazardous substance following an inspection of the facility, the department shall place a notice having the contents of the notice referred to in subsection (1) of this section in the records of real property kept by the auditor of the county in which the property is located.

(3) Any certification of completion issued in accordance with section 9 of this act shall be promptly filed with the records of real property kept by the auditor of the county in which the property is located and shall identify the property, the owner of the property, the date of issuance of the certificate, and the date the release occurred.

(4) Before selling any right, title, or interest in real property, whether public or private, the seller of the property shall provide a written statement to the purchaser describing any release of a significant quantity of a hazardous substance that the seller knows to have occurred during the prior twenty years on the property to be sold. Unless otherwise expressly agreed by seller and purchaser, any purchaser injured by failure of a seller of real property to provide the statement as required in this subsection may recover

damages for that injury by filing an action in superior court for the county in which the property is located.

(5) The department shall determine by rule, consistent with the purposes of this chapter, which releases are subject to the reporting and notification requirements under subsections (1), (2), and (4) of this section. This rule shall limit required reporting under this section to those releases that are of a magnitude that would cause a significant adverse impact to human health or the environment.

NEW SECTION. Sec. 17. FRAUD. If a potentially liable party commits fraud on the department or another potentially liable party in a proposed settlement agreement, in a request for a covenant not to sue, or in an application for a certificate of completion, then any limitation on liability or covenant not to sue otherwise provided is void, and the injured person, including the state of Washington, may recover actual damages sustained and a civil penalty of up to ten thousand dollars.

NEW SECTION. Sec. 18. PESTICIDE WASTE DISPOSAL. The director of the department of agriculture may adopt rules to allow the department of agriculture to take possession and dispose of canceled, suspended, or otherwise unusable pesticides held by persons regulated under chapter 17.21 RCW. For the purposes of this section, the department may become licensed as a hazardous waste generator.

The director of agriculture shall develop the necessary administrative structure to implement a pesticide waste disposal program. Issues to be addressed shall include, but are not limited to: Collection site acquisition, liability and insurance, transportation to the collection site and to ultimate disposal sites, licensure and regulatory compliance, volume of material to be disposed of, education as to legal use as an alternative to disposal, container disposal, and analysis of unknown presumed pesticide. In implementing the provisions of this section, the department of agriculture may charge fees of persons disposing of pesticide wastes to offset wholly or partially the program authorized by this section.

NEW SECTION. Sec. 19. HOUSEHOLD WASTE DISPOSAL. The director of the department of ecology may adopt rules to allow the department to take possession and dispose of household hazardous wastes.

The director of ecology shall assist local governments with implementation of household hazardous waste (moderate risk wastes) collection and disposal plans under RCW 70.105.220. The department shall provide technical assistance to facilitate collection site identification, acquisition of insurance, transportation to the collection site and to ultimate disposal sites, licensure and regulatory compliance, assessment of volume of material to be disposed of, education as to legal use as an alternative to disposal, container disposal, analysis of unknown presumed household hazardous wastes and other assistance the department deems appropriate. The department shall

provide grants to local governments to implement household hazardous waste disposal and collection plans required under RCW 70.105.220.

In implementing the provisions of this section, the department or local governments may charge fees of persons disposing of household hazardous waste to offset wholly or partially the programs authorized by this section.

NEW SECTION. Sec. 20. BUSINESS ASSISTANCE PROGRAM. The department of ecology shall contract with a nonprofit organization to establish a "pollution prevention pays" program for the purpose of promoting hazardous waste reduction and recycling. The program shall provide technical assistance to businesses that generate hazardous waste, which shall consist of: (1) A library and bibliography of literature detailing methods of waste reduction and recycling, including an in-house data base consisting of case studies, program publications, and contacts; (2) a waste reduction and recycling hotline; (3) onsite consultations for generators of hazardous wastes; and (4) an educational outreach program.

NEW SECTION. Sec. 21. HAZARDOUS SUBSTANCES CONFISCATED BY LAW ENFORCEMENT AGENCIES. (1) The director of the department of ecology shall arrange for the collection of hazardous substances confiscated by law enforcement agencies pursuant to chapter 69-.50 RCW or may provide financial assistance to law enforcement agencies for the disposal of such substances.

(2) The director of the department of ecology may adopt rules to allow the department to take possession and dispose of hazardous substances confiscated by law enforcement agencies under chapter 69.50 RCW.

(3) Any person convicted of a crime under chapter 69.50 RCW involving hazardous substances confiscated by a law enforcement agency may upon conviction, be assessed by the sentencing court with the costs of the disposal. Any money collected pursuant to this subsection shall not be subject to deposit in the public safety and education account. The department of ecology may seek reimbursement for the department's contributions to the cost of disposal from the moneys collected from such convicted person.

NEW SECTION. Sec. 22. TOXICS CONTROL ACCOUNTS. (1) The state toxics control account and the local toxics control account are created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Forty-seven percent of those revenues that are raised by the tax imposed under section 46 of this act; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW after the effective date of this section; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the state toxics control account shall be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(a) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW, including, but not limited to, programs for collection and disposal of household hazardous waste under chapter 70.105 RCW;

(b) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(c) The hazardous waste cleanup program required under this chapter;

(d) State matching funds required under the federal cleanup law;

(e) Financial assistance for local programs in accordance with RCW 70.95.130, 70.95.220, 70.95.530, 70.105.220, 70.105.225, 70.105.235(1) (a), (b), and (c), and 70.105.260;

(f) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(g) Hazardous materials emergency response training;

(h) Water and environmental health protection and monitoring programs;

(i) Programs authorized under chapter 70.146 RCW;

(j) A public participation program, including a grant program;

(k) Public funding to assist potentially liable persons to pay for the costs of remedial action;

(l) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150,

(m) Disposal of law enforcement agency drug related confiscations as required in section 21 of this act.

(4) Fifty-three percent of those revenues that are raised by the tax imposed under section 46 of this act shall be deposited into the local toxics control account. Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments to carry out the following purposes in descending order of priority: (a) Remedial actions for public or private facilities used primarily for the disposal of municipal solid waste that are on the hazard ranking list; (b) hazardous waste plans and programs under RCW 70.105.220, 70.105.225, 70.105.235(1) (a), (b), and (c), and 70.105.260, including, but not limited to, programs for collection and disposal of household hazardous waste under chapter 70.105 RCW; (c) solid waste plans and programs under RCW 70.95.130 and 70-.95.220; and (d) solid waste disposal and management facilities, meaning facilities or systems owned or operated by local governments for the purpose

of controlling, collecting, storing, treating, disposing, recycling, or recovery of solid wastes and including any equipment, structures, or property incidental to that purpose. However, the term does not include the acquisition of equipment used to collect residential or commercial garbage. In carrying out these priorities, the department shall ensure that moneys are made available to the maximum extent practicable to fund remedial actions.

(5) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute. All earnings from investment of balances in the accounts, except as provided in RCW 43.84.090, shall be credited to the accounts.

(6) When making grants or loans to local governments for assistance under this chapter, the department shall consider the following:

(a) The protection of public health;

(b) The cost to residential ratepayers without state assistance; and

(c) Actions required under federal and state permits, enforcement orders, and consent decrees.

(7) The department shall develop specific matching requirements for assisting local governments in the funding of remedial actions, hazardous and solid waste plans and programs, and solid waste disposal and management facilities. Funds for hazardous and solid waste plans and programs shall be allocated consistently with the priorities established in chapters 70-.95 and 70.105 RCW.

(8) One percent of the moneys deposited in the state and local toxics control accounts shall be allocated only for public participation grants. The department may provide public participation grants to groups of fifty or more persons who may be adversely affected by a release or threatened release of a hazardous substance and who petition the department for the grants. Grant moneys may be used only for the purposes of obtaining technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or removal at such facility. Each grant recipient shall be required, as a condition of the grant, to contribute funds equal to at least twenty percent of the grant amount and to commit such contributed funds toward the purposes for which the grant is made. Grants shall not exceed fifty thousand dollars for any one hazardous waste site, but the grant may be renewed to facilitate public participation at all stages of remedial action. All funds appropriated for public participation grants that remain unspent at the end of the biennium for which the appropriations are made revert to the state toxics control account.

NEW SECTION. Sec. 23. TOXICS CONTROL RESERVE ACCOUNT. (1) The toxics control reserve account is created in the state treasury. Money in the account shall be used solely for remedying releases

or threats of releases of hazardous substances by the state at sites for which a covenant not to sue has been entered into by the state. Money deposited in the account shall be administered by the department and is subject to legislative appropriation. All earnings from investment of balances in the toxics control reserve account, except as provided in RCW 43.84.090, shall be credited to the account.

(2) Beginning on July 1, 1988, and on July 1st of each year thereafter, the state treasurer shall transfer one and one-half million dollars from the state toxics control account and one and one-half million dollars from the local toxics control account to the toxics control reserve account. This subsection applies only if on July 1st the balance in the reserve account is less than twenty million dollars.

(3) After the reserve account balance first reaches twenty million dollars, the treasurer shall on July 1st of each year thereafter transfer equal amounts from the state toxics control account and the local toxics control account sufficient to bring the balance in the reserve account to twenty million dollars, but the contribution from each account shall not exceed one and one-half million dollars in any one year.

NEW SECTION. Sec. 24. EXISTING AGREEMENTS. The consent orders and decrees in effect on the effective date of this section shall remain valid and binding.

NEW SECTION. Sec. 25. EXEMPTION FROM PERMITS. A person conducting remedial action under an approved settlement agreement or the department conducting remedial action is exempt from the procedural and substantive requirements of state and local laws that would otherwise apply to the remedial action, including those requirements imposed by chapters 70.94, 70.105, 90.03, 90.44, and 90.58 RCW.

NEW SECTION. Sec. 26. APA EXEMPTION. A new section is added to chapter 34.04 RCW to read as follows:

This chapter shall not apply to review of final settlement offers under section 13 of this act.

NEW SECTION. Sec. 27. SEPA EXEMPTION. A new section is added to chapter 43.21C RCW to read as follows:

The detailed statement and other procedural requirements of this chapter are not applicable to remedial action by the state or authorized or ordered by the state under chapter 70.___ RCW (sections 1 through 25 of this act).

NEW SECTION. Sec. 28. EXEMPTION FROM PERMITS. A new section is added to chapter 70.94 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department undertaking a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 29. EXEMPTION FROM PERMITS. A new section is added to chapter 70.105 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 30. EXEMPTION FROM PERMITS. A new section is added to chapter 90.03 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 31. EXEMPTION FROM PERMITS. A new section is added to chapter 90.44 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 32. EXEMPTION FROM PERMITS. A new section is added to chapter 90.48 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 33. EXEMPTION FROM PERMITS. A new section is added to chapter 90.58 RCW to read as follows:

A person conducting a remedial action pursuant to an approved settlement agreement or the department conducting a remedial action under chapter 70.___ RCW (sections 1 through 25 of this act) is exempt from the procedural and substantive requirements of this chapter.

NEW SECTION. Sec. 34. TOXIC ENDANGERMENT. A new section is added to chapter 9A.36 RCW to read as follows:

(1) A person is guilty of toxic endangerment if he or she:

(a) Knowingly transports, treats, stores, handles, disposes of, or exports a hazardous substance or toxin in violation of state law; and

(b) Knows that such conduct places another person in imminent danger of death or serious bodily injury.

(2) As used in this section, "imminent danger" means that there is a substantial likelihood that harm will be experienced within a reasonable period of time if the danger is not eliminated.

(3) Toxic endangerment is a class B felony.

NEW SECTION. Sec. 35. It is the intent of the legislature in enacting sections 35 through 43 of this act to provide the department of ecology with

the necessary resources to adequately administer water quality discharge permits issued by the state. In doing this, the legislature intends to improve water quality state-wide by enhancing the ability of the department of ecology to adequately inspect dischargers into state ground and surface waters and implement water pollution control laws. Further, the legislature intends also to improve water quality through better control of toxicants.

NEW SECTION. Sec. 36. Beginning in fiscal year 1989, the department shall recover its administrative expenses for operating all aspects of its water quality discharge permit system except adjustments specified in section 38 of this act and those expenses that are directly related to enforcement by implementing a system to collect fees from persons holding state and federal waste discharge permits. The total amount of fees collected under this chapter in any fiscal year shall not exceed three million six hundred thousand dollars. Accordingly, for purposes of sections 37 through 41 of this act, "administrative expenses" means the costs incurred by the department in:

(1) Processing permit applications and modifications;

(2) Monitoring and evaluating compliance with permits;

(3) Conducting inspections;

(4) Securing laboratory analysis of samples taken during inspections;

(5) Reviewing required plans and documents directly related to operations of permittees;

(6) Monitoring compliance with delegated pretreatment programs; and

(7) Supporting the overhead expenses that are directly related to each of the preceding activities.

Administrative expenses shall not include costs related to processing of penalties and notices of violation, inspections that extend beyond routine compliance monitoring, criminal investigations, or the overhead expenses that are directly related to these activities.

NEW SECTION. Sec. 37. (1) The department shall establish an initial fee schedule to be implemented on July 1, 1988.

(2) Except as provided in section 38 of this act, beginning on July 1, 1988, the department shall charge any person or entity holding a permit under RCW 90.48.160, 90.48.162, or 90.48.260, annual fees to recover administrative expenses as defined in section 36 of this act. In no event may the fee for any permit authorizing the discharge of eight hundred gallons or less in any one day exceed one hundred and fifty dollars for any fiscal year. This fee limit shall be periodically adjusted by the department to reflect inflation.

(3) The department shall establish an accounting mechanism to relate administrative expenses incurred in performing activities described in section 36 of this act with fees charged to persons or entities holding permits by January 1, 1989.

(4) The department shall submit a report to the appropriate standing committees of the legislature on January 1, 1991, and biennially thereafter describing the actions it has taken over the prior biennium to improve the administrative efficiency of its water quality permit system.

NEW SECTION. Sec. 38. Fees charged pursuant to section 37 of this act shall be subject to the following conditions:

(1) The department shall consider the economic impact of fees on small dischargers and shall provide appropriate adjustments.

(2) The department shall ensure that indirect dischargers do not pay twice for the administrative expenses of a permit. Accordingly, the department shall not assess fees for permits issued by a city, town, or municipal corporation under RCW 90.48.165.

(3) The department shall review applications for credits from any public entity engaging in comprehensive monitoring programs and shall approve or deny such applications, in whole or in part, before assessing permit fees. Credits shall be granted in accordance with a schedule adopted by the department by rule and shall not exceed twenty-five percent of the permit fee assessed over the five-year period of the permit. The total amount of credits granted for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars. Permit fee credits granted by the department shall not be recoverable from the water quality permit account.

NEW SECTION. Sec. 39. All fees collected under section 37 of this act shall be deposited in the water quality permit account, which is hereby created in the state treasury, subject to appropriation. Money in the account collected from fees shall be expended exclusively by the department of ecology for the purposes of administering permits issued by the department under RCW 90.48.160, 90.48.162, and 90.48.260. Other funds deposited into this account may be used for the purposes of this chapter.

NEW SECTION. Sec. 40. (1) The department of ecology shall submit a report to the appropriate standing committees of the legislature no later than January 1, 1989. The report shall include a fee schedule proposed for use in fiscal years 1990 and beyond. The legislature shall evaluate this report in determining whether to change the revenue limit specified in section 36 of this act.

(2) In developing the fee schedule, the department shall consult with and be advised by representatives of dischargers, environmental organizations, other state agencies, and other interested parties. The advice received by the department shall be included in the report. The report shall also include a projection of the level of fees necessary to adequately operate the program.

NEW SECTION. Sec. 41. (1) In determining requirements for monitoring the condition of the waters of the state and of effluent discharged therein to be included in each permit issued by the department under RCW

90.48.160, 90.48.162, and 90.48.260, the department shall ensure that all such monitoring requirements are reasonably related to: (a) Determining compliance with the permit; (b) attaining all known, available, and reasonable treatment; or (c) determining what effects the discharge from the specific facility may have on the waters of the state or the biota or sediment in the waters of the state.

(2) Monitoring activities required pursuant to subsection (1)(c) of this section shall be structured so that, if monitoring is conducted within the terms of the permit, after an appropriate period of time, the permittee may request that the department reduce the monitoring schedule and/or scope. If in the determination of the department the results of the monitoring identify no measurable adverse effects or potential adverse effects to the waters of the state or biota or sediment in the waters of the state, then a reduced schedule and/or scope shall apply. If monitoring identifies measurable adverse effects or potential adverse effects of the discharge from the specific facility on the waters of the state or biota or sediment of the waters of the state, continued, more frequent, and/or more comprehensive monitoring shall be required by action of the department. The department may allow coordinated monitoring activities where discharges from multiple persons or entities holding permits may be causing cumulative effects and where cost savings will result from such coordination.

(3) A permit may be modified during its term to revise monitoring requirements pursuant to the applicable federal requirements or if monitoring methods or approaches become available that might reasonably be expected to measure adverse effects to the waters of the state or biota or sediment in the waters of the state.

Sec. 42. Section 4, chapter 249, Laws of 1985 and RCW 90.48.460 are each amended to read as follows:

Until June 30, 1988, the department of ecology shall collect administrative expenses from any person or entity requesting action of the department pertaining to the processing of applications for permits provided in RCW 90.48.160, 90.48.162, and 90.48.260. For the purposes of this section, "administrative expenses" shall mean the total actual costs incurred by the department in processing such permit applications.

Sec. 43. Section 4, chapter 71, Laws of 1955 as last amended by section 138, chapter 109, Laws of 1987 and RCW 90.48.190 are each amended to read as follows:

A permit shall be subject to termination upon thirty days' notice in writing if the department finds:

(1) That it was procured by misrepresentation of any material fact or by lack of full disclosure in the application;

(2) That there has been a violation of the conditions thereof;

(3) That a material change in quantity or type of waste disposal exists; or

(4) That an applicant or permittee has failed to pay required fees under RCW 90.48.460 or section 37 of this act.

NEW SECTION. Sec. 44. INTENT OF HAZARDOUS SUBSTANCE TAX. It is the intent of this chapter to impose a tax only once for each hazardous substance possessed in this state and to tax the first possession of all hazardous substances, including substances and products that the department of ecology determines to present a threat to human health or the environment. This chapter is not intended to exempt any person from tax liability under any other law.

NEW SECTION. Sec. 45. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Hazardous substance" means:

(a) Any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9601(14), as amended by Public Law 99-499;

(b) Petroleum products;

(c) Any pesticide product required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act; and

(d) Any other substance, category of substance, and any product or category of product determined by the director of ecology by rule to present a threat to human health or the environment if released into the environment. The director of ecology shall not add or delete substances from this definition more often than twice during each calendar year. For tax purposes, changes in this definition take effect on the first day of the next month that is at least thirty days after the effective date of the rule. The word "product" or "products" as used in this paragraph (d) means an item or items containing both: (i) One or more substances that are hazardous substances under (a), (b), or (c) of this subsection or that are substances or categories of substances determined under this paragraph (d) to present a threat to human health or the environment if released into the environment; and (ii) one or more substances that are not hazardous substances. Until April 1, 1988, "hazardous substance" does not include substances or products packaged as a household product and distributed for domestic use.

(2) "Petroleum product" means plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil, liquefied or liquefiable gases such as butane, ethane, and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

(3) "Possession" means the control of a hazardous substance located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does

not have physical possession. "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(4) "Previously taxed hazardous substance" means a hazardous substance in respect to which a tax has been paid under this chapter and which has not been remanufactured or reprocessed in any manner (other than mere repackaging or recycling for beneficial reuse) since the tax was paid.

(5) "Wholesale value" means the price paid by a wholesaler or retailer to a manufacturer or the price paid by a retailer to a wholesaler when the price represents the value at the time of first possession in Washington state. In cases where no sales transaction has occurred, "wholesale value" means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character, in accordance with rules of the department.

(6) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

NEW SECTION. Sec. 46. HAZARDOUS SUBSTANCE TAX. (1) A tax is imposed on the privilege of possession of hazardous substances in this state. The rate of the tax shall be eight-tenths of one percent multiplied by the wholesale value of the substance.

(2) Moneys collected under this chapter shall be deposited in the toxics control accounts under section 22 of this act.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter. The department may adopt rules to ensure that taxes imposed on retailers are imposed equally as a tax imposed on first possessors who are not retailers. The rules may provide that the tax be imposed based on a percentage of sales for any class of retailer.

NEW SECTION. Sec. 47. EXEMPTIONS. The following are exempt from the tax imposed in this chapter:

(1) Any successive possession of a previously taxed hazardous substance. If tax due under this chapter has not been paid with respect to a hazardous substance, the department may collect the tax from any person who has had possession of the hazardous substance. If the tax is paid by any person other than the first person having taxable possession of a hazardous substance, the amount of tax paid constitutes a debt owed by the first person having taxable possession to the person who paid the tax.

(2) Any possession of a hazardous substance by a natural person under circumstances where the substance is used, or is to be used, for a personal or domestic purpose (and not for any business purpose) by that person or a relative of, or person residing in the same dwelling as, that person.

(3) Any possession of (a) alumina, (b) natural gas, (c) petroleum coke, (d) liquid fuel or fuel gas used in petroleum processing, or (e) petroleum products that are exported for use or sale outside this state as fuel.

(4) Persons or activities that the state is prohibited from taxing under the United States Constitution.

(5) Any persons possessing a hazardous substance where the possession first occurred before the effective date of this section.

NEW SECTION. Sec. 48. CREDITS. (1) Credit shall be allowed in accordance with rules of the department of revenue for taxes paid under this chapter with respect to fuel carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(2) Credit shall be allowed, in accordance with rules of the department, against the taxes imposed in this chapter for any hazardous substance tax paid to another state with respect to the same hazardous substance. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to that hazardous substance. For the purpose of this subsection:

(a) "Hazardous substance tax" means a tax:

(i) That is imposed on the act or privilege of possessing hazardous substances, and that is not generally imposed on other activities or privileges; and

(ii) That is measured by the value of the hazardous substance, in terms of wholesale value or other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

Sec. 49. Section 6, chapter 109, Laws of 1987 and RCW 43.21B.310 are each amended to read as follows:

(1) Any order issued by the department or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. Except as provided under chapter 70.— RCW (sections 1 through 25 of this act,) this is the exclusive means of appeal of such an order.

(2) The department or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.— (section 7, chapter 109, Laws of 1987) to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of receipt.

NEW SECTION. Sec. 50. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY——STATE TOXICS CONTROL ACCOUNT. The sum of fourteen million six hundred eighty-one thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics account to the department of ecology, of which:

(1) $10,000,000, or so much thereof as may be necessary, shall be expended for the purposes of administering and conducting remedial action;

(2) $4,030,000, or so much thereof as may be necessary, shall be expended for the ongoing implementation of the hazardous waste regulatory program authorized by chapter 70.105 RCW including, but not limited to, activities to permit and inspect hazardous waste facilities;

(3) $340,000, or so much thereof as may be necessary, shall be used to provide technical assistance to local governments in accordance with RCW 70.105.170 and 70.105,255, and for local planning grants as provided in RCW 70.105.220 and 70.105.235(1) (a), (b), and (c);

(4) $311,000, or so much thereof as may be necessary, shall be used for solid waste management activities including, but not limited to: (a) State and local solid waste enforcement; (b) development and dissemination of technical assistance information for local governments regarding proper management and disposal of solid waste in accordance with RCW 70.95-.100 and 70.95.263(2); and (c) local planning grants as provided in RCW 70.95.130.

The appropriation in this section shall be reduced by any amount expended under the appropriation in section 50, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 51. APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE——STATE TOXICS CONTROL ACCOUNT. The sum of two hundred thirty-four thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of agriculture to administer and carry out the agricultural waste management programs. The appropriation in this section shall be reduced by any amount expended under the appropriation in section 51, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 52. APPROPRIATION TO THE DEPARTMENT OF COMMUNITY DEVELOPMENT—STATE TOXICS CONTROL ACCOUNT. The sum of three hundred eighty-four thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of community development to carry out hazardous waste training for fire fighters. This appropriation shall be reduced by any amount expended under the appropriation in section 52, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 53. APPROPRIATION TO THE DEPARTMENT OF REVENUE—STATE TOXICS CONTROL ACCOUNT. The sum of one hundred six thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of revenue to administer the collection of taxes imposed by this act. This appropriation shall be reduced by any amount expended under the appropriation in section 53, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 54. APPROPRIATION TO THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—STATE TOXICS CONTROL ACCOUNT. The sum of seven hundred ten thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the state toxics control account to the department of social and health services, of which:

(1) $124,000, or so much thereof as may be necessary, shall be used to test public drinking water supplies for organic chemicals;

(2) $313,000, or so much thereof as may be necessary, shall be used to monitor drinking water supplies potentially affected by hazardous waste releases;

(3) $273,000, or so much thereof as may be necessary, shall be used for health risk assessments, health monitoring activities, and health information services for communities near a hazardous waste site.

This appropriation shall be reduced by any amount expended under the appropriation in section 54, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 55. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY—LOCAL TOXICS CONTROL ACCOUNT. The sum of eighteen million six hundred eighty-five thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the local toxics account to the department of ecology, of which:

(1) $936,000, or so much thereof as may be necessary, shall be expended for local solid waste enforcement grants.

(2) $17,749,000, or so much thereof as may be necessary, shall be used for grants and loans pursuant to section 22(4) of this act.

This appropriation shall be reduced by any amount expended under the appropriation in section 55, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 56. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY—TOXICS CONTROL RESERVE ACCOUNT. Effective July 1, 1988, the sum of three million dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the toxics control reserve account to the department of ecology to carry out the purposes of this act. This appropriation shall be reduced by any amount expended under the appropriation in section 56, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 57. APPROPRIATION TO THE DEPARTMENT OF ECOLOGY——BUSINESS ASSISTANCE PROGRAM. The sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, is appropriated from the state toxics control account to the department of ecology for the biennium ending June 30, 1989, to carry out the purposes of section 20 of this act. This appropriation shall be reduced by any amount expended under the appropriation in section 57, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 58. The sum of three million six hundred thousand dollars, or so much thereof as may be necessary, is appropriated from the water quality permit account to the department of ecology for the biennium ending June 30, 1989, to carry out the purposes of sections 35 through 43 of this act. This appropriation shall be reduced by any amount expended under the appropriation in section 58, chapter 2, Laws of 1987 3rd ex. sess.

NEW SECTION. Sec. 59. 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. 60. Section captions used in this act do not constitute any part of the law.

NEW SECTION. Sec. 61. Sections 1 through 25 of this act constitute a new chapter in Title 70 RCW. Sections 36 through 41 of this act are each added to chapter 90.48 RCW. Sections 44 through 48 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 62. Sections 44 through 48 of this act shall take effect on January 1, 1988. The department of revenue may immediately take such steps as may be necessary to ensure that the tax imposed under sections 44 through 48 of this act is implemented on its effective date.

NEW SECTION. Sec. 63. REPEALERS. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.010;

(2) Section 2, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.020;

(3) Section 3, chapter 65, Laws of 1983 1st ex. sess., section 129, chapter 7, Laws of 1985 and RCW 70.105A.030;

(4) Section 4, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.040;

(5) Section 5, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.050;

(6) Section 6, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.060;

(7) Section 7, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.070;

(8) Section 8, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.080;

(9) Section 13, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.090;

(10) Section 9, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.900; and

(11) Section 15, chapter 65, Laws of 1983 1st ex. sess. and RCW 70-.105A.905.

NEW SECTION. Sec. 64. (1) The state treasurer shall transfer to the state toxics control account the balance of all funds in the hazardous waste control and elimination account which remain in this account immediately prior to the effective date of this section. Any person who, by the effective date of this section, has not paid the fees and other amounts due under those sections of chapter 70.105A RCW which are repealed by section 63 of this act shall continue to be obligated to pay such fees and amounts. All payments received after the effective date of this section shall be deposited into the state toxics control account. The provisions of those RCW sections which are repealed in section 63 of this act shall continue to apply to those fees and amounts which are due on the effective date of this section.

(2) The repeal of RCW 70.105A.030 shall be applied retroactively as of January 1, 1987, so that no person, as defined in RCW 70.105A.020, will have to pay any fee for 1987, collectible in 1988.

NEW SECTION. Sec. 65. Sections 1 through 64 of this act shall take effect March 1, 1989.

NEW SECTION. Sec. 66. Sections 1 through 64 of this 1988 act shall constitute the alternative to Initiative 97, which has been proposed to the legislature. The secretary of state is directed to place sections 1 through 64 of this 1988 act on the ballot in conjunction with Initiative 97, pursuant to Article II, section 1(a) of the state Constitution.

NEW SECTION. Sec. 67. Section 65, chapter 2, Laws of 1987 3rd ex. sess. (uncodified) is hereby repealed.

NEW SECTION. Sec. 68. Chapter 2, Laws of 1987 3rd ex. sess. shall expire March 1, 1989: PROVIDED, That if the voters fail to approve Initiative 97 and fail to approve the alternative to the initiative proposed by the legislature, chapter 2, Laws of 1987 3rd ex. sess. shall expire on the date the election results are certified.

NEW SECTION. Sec. 69. A new section is added to chapter 2, Laws of 1987 3rd ex. sess. and to chapter 82.22 RCW to read as follows:

Notwithstanding RCW 82.22.020, "hazardous substance" does not include substances or products packaged as a household product and distributed for domestic use until June 1, 1988, and does not include such substances or products in inventory before June 1, 1988.

NEW SECTION. Sec. 70. Section 69 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 7, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 113

[Engrossed House Bill No. 1629]

PHYSICIANS' ASSISTANTS—ELIGIBILITY OF FOREIGN MEDICAL SCHOOL GRADUATES

AN ACT Relating to physicians' assistants; amending RCW 18.71A.010; and adding a new section to chapter 18.71A RCW.

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

Sec. 1. Section 1, chapter 30, Laws of 1971 ex. sess. as amended by section 1, chapter 190, Laws of 1975 1st ex. sess. and RCW 18.71A.010 are each amended to read as follows:

(1) "Physician's assistant" means((:

~~(a)~~)) a person who is enrolled in, or who has satisfactorily completed, a board approved training program designed to prepare persons to practice medicine to a limited extent((~~; or~~

~~(b) A person who is a university medical graduate of a foreign medical school or college~~)).

(2) "Board" means the board of medical examiners.

(3) "Practice medicine" shall have the meaning defined in RCW ((~~18.71.010~~)) 18.71.011.

NEW SECTION. Sec. 2. A new section is added to chapter 18.71A RCW to read as follows:

Foreign medical school graduates shall not be eligible for registration as physician assistants after July 1, 1989. Those applying on or before that date shall remain eligible to register as a physician assistant after July 1, 1989: PROVIDED, That the graduate does not violate chapter 18.130 RCW or the rules of the board. The board shall adopt rules regarding applications for registration. The rules shall include board approval of training as required in RCW 18.71.051(1) and receipt of original translated transcripts directly from the medical school.

Passed the House March 5, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 114

[Substitute House Bill No. 1170]

WORKERS' COMPENSATION—MEDICAL EXAMINATIONS FOR PERMANENT DISABILITIES

AN ACT Relating to medical examinations on behalf of the department of labor and industries; adding new sections to chapter 51.32 RCW; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. It is the intent of the legislature that medical examinations for determining permanent disabilities be conducted fairly and objectively by qualified examiners and with respect for the dignity of the injured worker.

NEW SECTION. Sec. 2. (1) The department shall develop standards for the conduct of special medical examinations to determine permanent disabilities, including, but not limited to:

(a) The qualifications of persons conducting the examinations;

(b) The criteria for conducting the examinations, including guidelines for the appropriate treatment of injured workers during the examination; and

(c) The content of examination reports.

(2) The department shall investigate the amount of examination fees received by persons conducting special medical examinations to determine permanent disabilities, including total compensation received for examinations of department and self-insured claimants, and establish compensation guidelines and compensation reporting criteria.

(3) The department shall investigate the level of compliance of self-insurers with the requirement of full reporting of claims information to the department, particularly with respect to medical examinations, and develop effective enforcement procedures or recommendations for legislation if needed.

NEW SECTION. Sec. 3. The department shall examine the credentials of persons conducting special medical examinations and shall monitor the quality and objectivity of examinations and reports for the department and self-insured claimants. The department shall adopt rules to ensure that examinations are performed only by qualified persons meeting department standards.

NEW SECTION. Sec. 4. The department shall report periodically, no less than annually, to the committee on economic development and labor of the senate and the committee on commerce and labor of the house of representatives, or the appropriate successor committees, on the program established to fulfill the requirements of sections 2 and 3 of this act.

NEW SECTION. Sec. 5. The department shall study the role of the attending physician in assuring an injured worker's return to work at the earliest time consistent with good medical care, and the effect of changing the attending physician when return to work does not occur expeditiously. The department shall report the results of its study to the appropriate committees of the legislature no later than December 1, 1988.

NEW SECTION. Sec. 6. The sum of one hundred thousand dollars, or so much thereof as may be necessary, is appropriated from the medical aid fund to the department of labor and industries for the biennium ending June 30, 1989, to carry out the purposes of this act.

NEW SECTION. Sec. 7. Sections 1 through 4 of this act are each added to chapter 51.32 RCW.

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 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 115

[Engrossed Substitute Senate Bill No. 5036]
SURPLUS SALMON EGGS

AN ACT Relating to surplus salmon eggs; and amending RCW 75.08.245.

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

Sec. 1. Section 4, chapter 35, Laws of 1971 as last amended by section 25, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.08.245 are each amended to read as follows:

The department may supply, at a reasonable charge, surplus salmon eggs to a person for use in the cultivation of salmon. The department shall not intentionally create a surplus of salmon to provide eggs for sale. The department shall only sell salmon eggs from stocks that are not suitable for salmon population rehabilitation or enhancement in state waters in Washington. All sales or transfers shall be consistent with the department's egg transfer and aquaculture disease control regulations as now existing or hereafter amended. Prior to department determination that eggs of a salmon stock are surplus and available for sale, the department shall assess the productivity of each watershed that is suitable for receiving eggs.

The salmon enhancement advisory council, created in RCW 75.48.120, shall consider egg sales at each meeting.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 116

[House Bill No. 1558]
TEACHERS' RETIREMENT OPTIONS

AN ACT Relating to actuarially equivalent options for public retirement allowances; amending RCW 41.32.498; and providing an effective date.

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

Sec. 1. Section 3, chapter 189, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 143, Laws of 1987 and RCW 41.32.498 are each amended to read as follows:

Any person who becomes a member subsequent to April 25, 1973 or who has made the election, provided by RCW 41.32.497, to receive the benefit provided by this section, shall receive a retirement allowance consisting of:

(1) An annuity which shall be the actuarial equivalent of his additional contributions on full salary as provided by chapter 274, Laws of 1955 and his lump sum payment in excess of the required contribution rate made at date of retirement, pursuant to RCW 41.32.350, if any; and

(2) A combined pension and annuity service retirement allowance which shall be equal to two percent of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system, to a maximum of sixty percent of such average earnable compensation: PROVIDED, That any member may irrevocably elect, at time of retirement, to withdraw all or a part of his accumulated contributions and to receive, in lieu of the full retirement allowance provided by this subsection, a reduction in the standard two percent allowance, of the actuarially determined amount of monthly annuity which would have been purchased by said contributions: PROVIDED FURTHER, That no member may withdraw an amount of accumulated contributions which would lower his retirement allowance below the minimum allowance provided by RCW 41.32.497 as now or hereafter amended: AND PROVIDED FURTHER, That said reduced amount may be reduced even further pursuant to the options provided in subsection (4) below;

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the retirement allowance payable for service of a member who was state superintendent of public instruction on January 1, 1973 shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service for each year of such service.

(4) Upon an application for retirement approved by the board of trustees every member shall receive the maximum retirement allowance available to him throughout life unless prior to the time the first installment thereof becomes due he has elected to receive the reduced amount provided in subsection (2) and/or has elected by executing the proper application therefor, to receive the actuarial equivalent of his retirement allowance in reduced payments throughout his life, with the options listed below:

(a) Option 1. If he dies before he has received the present value of his accumulated contributions at the time of his retirement by virtue of the annuity portion of his retirement allowance, the unpaid balance shall be paid to his estate or to such person as he shall have nominated by written designation executed and filed with the board of trustees.

(b) Option 2. Upon his death his adjusted retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the board of trustees at the time of his retirement.

(c) Option 3. Upon his death one-half of his adjusted retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation executed and filed with the board of trustees at the time of his retirement.

(d) Option 4. In addition to the other options provided under this subsection, the member may also elect to receive the maximum retirement allowance or a retirement allowance based on options 1, 2, or 3 which also includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to options 1, 2, and 3 as provided in this subsection.

NEW SECTION. Sec. 2. This act shall take effect June 30, 1988.

Passed the House February 15, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 117

[House Bill No. 1559]

TEACHERS' RETIREMENT—TERMINATION OR REESTABLISHMENT OF MEMBERSHIP REVISED

AN ACT Relating to termination of membership for members of the teachers' retirement system plan II; amending RCW 41.32.820 and 41.32.825; and providing an effective date.

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

Sec. 1. Section 15, chapter 293, Laws of 1977 ex. sess. as amended by section 17, chapter 52, Laws of 1982 1st ex. sess. and RCW 41.32.820 are each amended to read as follows:

A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund

of accumulated contributions shall terminate membership and all benefits under the provisions of RCW 41.32.755 through 41.32.825.

Sec. 2. Section 16, chapter 293, Laws of 1977 ex. sess. and RCW 41-.32.825 are each amended to read as follows:

A member, who had left service and withdrawn the member's accumulated contributions, shall, upon reestablishment of membership under RCW 41.32.240, receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department. The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1988.

Passed the House February 15, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 118

[Engrossed House Bill No. 2046]

HOSPITAL RATES NEGOTIATED WITH THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—RATE REVIEW PROCESS REVISED

AN ACT Relating to hospital reimbursement; amending RCW 70.39.140; and declaring an emergency.

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

Sec. 1. Section 15, chapter 5, Laws of 1973 1st ex. sess. as last amended by section 14, chapter 288, Laws of 1984 and RCW 70.39.140 are each amended to read as follows:

(1)(a) From and after a date not less than twelve months but not more than twenty-four months after the adoption of the uniform system of accounting and financial reporting required by RCW 70.39.100, as the commission may direct, the commission shall have the power to initiate such reviews or investigations as may be necessary to assure all purchasers of health care services that the total costs of a hospital are reasonably related to the total services offered by that hospital, that costs do not exceed those that are necessary for prudently and reasonably managed hospitals, that the hospital's rates are reasonably related to the hospital's aggregate costs; and that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference. Effective July 1, 1985, this chapter does not preclude any hospital from negotiating with and charging any particular payer or purchaser rates that are less than those approved by the commission, if:

(((~~a~~))) (i) The rates are cost justified and do not result in any shifting of costs to other payers or purchasers in the current or any subsequent year; and

(((~~c~~))) (ii) All the terms of such negotiated rates are filed with the commission within ten working days and made available for public inspection.

(b) The commission may retrospectively disapprove such negotiated rates in accordance with procedures established by the commission if such rates are found to contravene any provision of this section.

(c) Any hospital may charge rates as negotiated with or established by the department of social and health services. Rates negotiated or established under this subsection (c) are not subject to (a) or (b) of this subsection. Rates negotiated or established under this subsection (c) are not subject to any review or approval by the commission under this chapter.

(2) In order to properly discharge these obligations, the commission shall have full power to review projected annual revenues and approve the reasonableness of rates proposed to generate that revenue established or requested by any hospital subject to the provisions of this chapter. No hospital shall charge for services at rates exceeding those established in accordance with the procedures established hereunder. After June 30, 1985, rates for inpatient care shall be expressed using an appropriate measure of hospital efficiency, such as that based on diagnosis-related groups, and, if necessary for federal medicare participation in a hospital reimbursement control system, hospitals shall charge for such care at rates prospectively established and expressed in terms of a comparable unit of total payment, such as diagnosis-related groups. In the event any hospital reimbursement control system is implemented, children's hospitals shall be exempted until such time as a pediatric based classification system which reflects the unique resource consumption by patients of a children's hospital is perfected. For the purposes of this exemption, children's hospitals are defined as hospitals whose patients are predominantly under eighteen years of age.

(3) In the interest of promoting the most efficient and effective use of health care service, and providing greater promise of hospital cost containment, the commission may develop a hospital reimbursement control system in which all payers or purchasers participate, that includes procedures for establishing prospective rates, that deals equitably with the costs of providing charity care, and that shall include the participation of the federal medicare program under the social security amendments of 1983, Public Law 98-21. The commission shall have the authority to require utilization reviews of patient care to ensure that hospital admissions and services provided are medically justified. The commission may seek approval, concurrence, or participation in such a system from any federal agency, such as the department of health and human services, prior to securing legislative

approval pursuant to concurrent resolution for implementation of any hospital reimbursement control system developed pursuant to this section. The commission shall involve the legislature in the development of any plan for a hospital reimbursement control system.

(4) The commission shall assure that no hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services; or

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital((; or)).

(5) The commission shall serve as the state agency responsible for coordinating state actions and otherwise responding and relating to the efforts of the federal department of health and human services in planning and implementing federal cost containment programs with respect to hospitals and related health care institutions as authorized by the social security amendments of 1983, as now or hereafter amended, or other federal law, and any rules or regulations promulgated thereto. In carrying out this responsibility, the commission may assume any function or role authorized by appropriate federal regulations implementing the social security amendments of 1983; or assume any combination of such roles or functions as it may determine will most effectively contain the rising costs of the varying kinds of hospitals and related health care institutions in Washington state. In determining its functions or roles in relation to federal efforts, the commission shall seek to ensure coordination, and the reduction of duplicatory cost containment efforts, by the state and federal governments, as well as the diligent fulfillment of the purposes of this chapter and declared public policy and legislative intent herein.

Nothing in this chapter limits the ability of the department of social and health services to establish or negotiate hospital payment rates pursuant to RCW 74.09.120 or in accord with a federally approvable state plan under Title XIX of the federal social security act.

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

Passed the House March 9, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 119

[Engrossed Substitute House Bill No. 1849]

LONG-TERM CARE OMBUDSMAN PROGRAM REORGANIZED—LEGISLATIVE STUDY TO BE CONDUCTED

AN ACT Relating to the state long-term care ombudsman; amending RCW 43.190.030; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature recognizes that the state long-term care ombudsman program and the office of the state long-term care ombudsman, located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an organization, outside of the department of social and health services and independent of any other state agency, to provide, through contract, long-term care ombudsman services.

Sec. 2. Section 3, chapter 290, Laws of 1983 and RCW 43.190.030 are each amended to read as follows:

((~~(1)~~)) There is created ((~~within the department of social and health services~~)) the office of the state long-term care ombudsman. ((~~The secretary shall place the office in an area within the department which will enable the office to fully carry out the purposes of this chapter.~~)) The department of community development shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The ((~~secretary~~)) department of community development shall ensure that all program and staff support necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is ((~~made available to the ombudsman to the extent authorized by RCW 43.190.120.~~

~~(2) The state ombudsman~~)) provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The long-term care ombudsman program shall have the following powers and duties:

((~~(a)~~)) (1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

((~~(b)~~)) (2) Carry out such other activities as the ((~~secretary~~)) department of community development deems appropriate;

((~~(c)~~)) (3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality

of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(((~~d~~))) (4) Establish a state-wide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(((~~e~~))) (5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(((~~i~~))) (a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(((~~ii~~))) (b) Such disclosure is required by court order.

NEW SECTION. Sec. 3. The committee on health care of the house of representatives shall conduct a survey and analysis of the appropriate placement outside of state government of the office of the state long-term care ombudsman. The survey shall ascertain how the contracted placement of the office will most effectively allow it to meet its responsibilities under chapter 43.190 RCW. A draft of the findings shall be submitted to the governor and the legislature before the first Friday in November 1988 and the final findings, conclusions, and recommendations shall be submitted in a report to the governor and the legislature no later than December 30, 1988.

The survey required shall include, but is not limited to, a complete assessment of how independently contracting the program outside state government will provide the office with an effective means for resolving complaints and building program accountability and integrity facilitating local involvement and contributing to long-term care policy development. The study shall also clearly identify and describe how this model for administering the duties and responsibilities of the ombudsman will affect the ability of the office to function as mandated under the federal older Americans act, and provide suggestions that will assist the office to coordinate information and assistance, to the fullest degree possible, with citizen groups, the general public, the nursing home industry, and local volunteer programs. The survey shall further specify the operational program details necessary for adopting the proposed independently contracted plan.

NEW SECTION. Sec. 4. The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman services.

NEW SECTION. Sec. 5. Section 2 of this act shall take effect July 1, 1989.

Passed the House February 8, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 120

[House Bill No. 1686]

STATE SEAL—USE REGULATED

AN ACT Relating to the seal of the state of Washington; adding a new chapter to Title 43 RCW; repealing RCW 9.91.050 and 9.91.055; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that the seal of the state of Washington is a symbol of the authority and sovereignty of the state and is a valuable asset of its people. It is the intent of the legislature to ensure that appropriate uses are made of the state seal and to assist the secretary of state in the performance of the secretary's constitutional duty as custodian of the seal.

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

(1) "State seal" means the seal of the state as described in Article XVIII, section 1 of the state Constitution and in RCW 1.20.080.

(2) "Secretary" means the secretary of state and any designee of the secretary of state.

NEW SECTION. Sec. 3. Except as otherwise provided in this chapter, the state seal shall be used for official purposes only.

NEW SECTION. Sec. 4. (1) The secretary of state may authorize the use of the state seal on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing.

(2) Application for such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications.

(3) If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

(4) The secretary of state shall adopt rules under chapter 34.04 RCW to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high-quality reproduction of the seal. The rules shall also prescribe the circumstances when a

licensing arrangement shall be required and the method for determining licensing fees.

NEW SECTION. Sec. 5. (1) Except as otherwise provided in section 4 of this act, the state seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(2) The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

(3) It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

(4) Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative purposes by the news media if the reproduction by the news media is incidental to the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons.

NEW SECTION. Sec. 6. No use of the state seal may operate or be construed to operate in any way as an endorsement of any business, organization, product, service, or article.

NEW SECTION. Sec. 7. Any person who violates section 5(1) or (3) of this act by using the state seal or an imitative or deceptively similar seal on or in connection with any product, business, organization, service, or article shall be liable for damages in a suit brought by the attorney general. The damages shall be equal to the gross monetary amount gained by the misuse of the state seal or the use of the imitative or deceptively similar seal, plus attorney's fees and other costs of the state in bringing the suit. The "gross monetary amount" is the total of the gross receipts that can be reasonably attributed to the misuse of the seal or the use of an imitative or deceptively similar seal. In addition to the damages, the violator is subject to a civil penalty imposed by the court in an amount not to exceed five thousand dollars. In imposing this penalty, the court shall consider the need to deter further violations of this chapter.

The attorney general may seek and shall be granted such injunctive relief as is appropriate to stop or prevent violations of this chapter.

NEW SECTION. Sec. 8. The secretary of state shall conduct investigations for violations of this chapter and may request enforcement by the attorney general.

NEW SECTION. Sec. 9. Any person who wilfully violates this chapter is guilty of a misdemeanor.

NEW SECTION. Sec. 10. All fees, penalties, and damages received under this chapter shall be paid to the secretary of state and with the exception of the filing fee authorized in section 4(2) of this act shall be deposited by the secretary into the capitol building construction account in the

state treasury, for use in the historical restoration and completion of the legislative building.

NEW SECTION. Sec. 11. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 170, Laws of 1947 and RCW 9.91.050; and

(2) Section 2, chapter 170, Laws of 1947 and RCW 9.91.055.

NEW SECTION. Sec. 12. Sections 1 through 10 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House February 10, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 121

[Substitute Senate Bill No. 5586]

PUBLIC WORKS CONTRACTS—HOURS OF LABOR

AN ACT Relating to hours of labor; and adding a new section to chapter 49.28 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 49.28 RCW to read as follows:

Notwithstanding the provisions of RCW 49.28.010 through 49.28.060, a contractor or subcontractor in any public works contract subject to those provisions may enter into an agreement with his or her employees in which the employees work up to ten hours in a calendar day. No such agreement may provide that the employees work ten-hour days for more than four calendar days a week. Any such agreement is subject to approval by the employees. The overtime provisions of RCW 49.28.020 shall not apply to the hours, up to forty hours per week, worked pursuant to agreements entered into under this section.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 122

[Senate Bill No. 6668]

SPECIAL FUEL USERS OR DEALERS—BOND REQUIREMENTS REVISED

AN ACT Relating to special fuel bonds; and amending RCW 82.38.020 and 82.38.110.

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

Sec. 1. Section 3, chapter 175, Laws of 1971 ex. sess. as amended by section 2, chapter 40, Laws of 1979 and RCW 82.38.020 are each amended to read as follows:

As hereinafter used in this chapter:

(1) "Person" means every natural person, fiduciary, association or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

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

(3) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(4) "Motor vehicle" means every self-propelled vehicle designed for operation upon land utilizing special fuel as the means of propulsion.

(5) "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in chapter 82.36 RCW.

(6) "Bulk storage" means the placing of special fuel by a special fuel dealer into a receptacle other than the fuel supply tank of a motor vehicle.

(7) "Special fuel dealer" means any person engaged in the business of delivering special fuel into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him, or into bulk storage facilities for subsequent use in a motor vehicle. For this purpose the term "fuel supply tank or tanks" does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

(8) "Special fuel user" means any person purchasing special fuel into bulk storage without payment of the special fuel tax for subsequent use in a motor vehicle, or any person engaged in interstate commercial operation of motor vehicles any part of which is within this state.

(9) "Special fuel supplier" means any person engaged in the business of selling special fuel where delivery thereof is made other than, or in addition to, the manner prescribed under the definition of "special fuel dealer", but does not include any person making retail sales of special fuel exclusively for heating purposes.

(10) "Service station" means any location at which fueling of motor vehicles is offered to the general public.

(11) "Unbonded service station" means any service station at which an unbonded special fuel dealer regularly makes sales of special fuel by means of delivery thereof into the fuel supply tanks of motor vehicles.

(12) "Bond" means: (a) A bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the provisions of chapter 48.28 RCW which bond shall be payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations of such dealer, arising out of this chapter; or (b) a deposit with the state treasurer by the special fuel dealer or special fuel user, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Washington, or any county of said state, of an actual market value not less than the amount so fixed by the department; or (c) such other instruments as the department may determine and prescribe by rule to protect the interests of the state and to insure compliance of the requirements of this chapter.

(13) "Lessor" means any person (a) whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public, and (b) who maintains established places of business and whose lease or rental contracts require such motor vehicles to be returned to the established places of business.

(14) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

(15) "Standard pressure and temperature" means fourteen and seventy-three hundredths pounds of pressure per square inch at sixty degrees Fahrenheit.

Sec. 2. Section 12, chapter 175, Laws of 1971 ex. sess. as last amended by section 2, chapter 242, Laws of 1983 and RCW 82.38.110 are each amended to read as follows:

Application for a special fuel dealer's license, special fuel supplier's license, or a special fuel user's license((;)) shall be made to the department. The application shall be filed upon a form prepared and furnished by the department and shall contain such information as the department deems necessary.

No special fuel dealer's license ((~~or special fuel user's license shall~~)) may be issued to any person or continued in force unless such person has furnished bond, as defined in RCW 82.38.020, in such form as the department may require, to secure his compliance with this chapter, and the payment of any and all taxes, interest, and penalties due and to become due hereunder. The requirement of furnishing a bond shall be waived ((~~for special fuel users having valid Washington vehicle license plates on all of their~~

~~licensed vehicles and having an estimated tax liability of less than five hundred dollars per year and~~)) for special fuel dealers who only deliver special fuel into the fuel tanks of marine vessels.

The department may require a special fuel user to post a bond if the special fuel user, after having been licensed, has failed to file timely reports or has failed to remit taxes due, or when an investigation or audit indicates problems severe enough that the department, in its discretion, determines that a bond is required to protect the interests of the state. The department may also adopt rules prescribing conditions that, in the department's discretion, require a bond to protect the interests of the state.

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to three times the estimated monthly fuel tax, determined in such manner as the department may deem proper: PROVIDED, That those special fuel dealers ((~~and special fuel users~~)) having held a special fuel license for five or more years without having said license suspended or revoked by the department shall be permitted to reduce the amount of their bond to twice the estimated monthly tax liability: PROVIDED FURTHER, That the total amount of the bond or bonds shall never be less than five hundred dollars nor more than fifty thousand dollars.

Passed the Senate February 12, 1988.
Passed the House March 9, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 123

[Engrossed House Bill No. 1796]

TELECOMMUNICATIONS—INFORMATION-ACCESS TELEPHONE SERVICES REGULATED—REPORT TO LEGISLATURE ON REGULATING OBSCENE SERVICES

AN ACT Relating to telecommunications; adding a new section to chapter 80.36 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature finds that throughout the state there is widespread use of information delivery services, which are also known as information-access telephone services and commonly provided on a designated telephone number prefix. These services operate on a charge-per-call basis, providing revenue for both the information provider and the local exchange company. The marketing practices for these telephone services have at times been misleading to consumers and at other times specifically directed toward minors. The result has been placement of calls by individuals, particularly by children, who are uninformed about the charges that might apply. In addition, children may have secured access to obscene,

indecent, and salacious material through these services. The legislature finds that these services can be blocked by certain local exchange companies at switching locations, and that devices exist which allow for blocking within a residence. Therefore, the legislature finds that residential telephone users in the state are entitled to the option of having their phones blocked from access to information delivery services.

(2) It is the intent of the legislature that the utilities and transportation commission and local exchange companies, to the extent feasible, distinguish between information delivery services that are misleading to consumers, directed at minors, or otherwise objectionable and adopt policies and rules that accomplish the purposes of this act with the least adverse effect on information delivery services that are not misleading to consumers, directed at minors, or otherwise objectionable.

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) "Information delivery services" means telephone recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix.

(b) "Information providers" means the persons or corporations that provide the information, prerecorded message, or interactive program for the information delivery service. The information provider generally receives a portion of the revenue from the calls.

(c) "Interactive program" means a program that allows an information delivery service caller, once connected to the information provider's announcement machine, to use the caller's telephone device to access more specific information.

(2) The utilities and transportation commission shall by rule require any local exchange company that offers information delivery services to a local telephone exchange to provide each residential telephone subscriber the opportunity to block access to all information delivery services offered through the local exchange company. The rule shall take effect by October 1, 1988.

(3) All costs of complying with this section shall be borne by the information providers.

(4) The local exchange company shall inform subscribers of the availability of the blocking service through a bill insert and by publication in a local telephone directory.

NEW SECTION. Sec. 3. By October 1, 1988, the commission shall investigate and report to the committees on energy and utilities in the house of representatives and the senate on methods to protect minors from obscene, indecent, and salacious materials available through the use of information delivery services. The investigation shall include a study of personal

identification numbers, credit cards, scramblers, and beep-tone devices as methods of limiting access.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 124

[Substitute Senate Bill No. 6298]

UNDERWATER HISTORIC RESOURCES—OWNERSHIP CLARIFIED

AN ACT Relating to abandoned property with historical value; amending RCW 27.53-.030, 27.53.060, and 43.19.1919; adding new sections to chapter 27.53 RCW; adding a new section to chapter 79.90 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. It is the intent of the legislature that those historic archaeological resources located on state-owned aquatic lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that divers have long enjoyed the recreation of diving near shipwrecks and picking up artifacts from the state-owned aquatic lands, and it is not the intent of the legislature to regulate these occasional, recreational activities except in areas where necessary to protect underwater historic archaeological sites. The legislature also recognizes that salvors who invest in a project to salvage underwater archaeological resources on state-owned aquatic lands should be required to obtain a state permit for their operation in order to protect the interest of the people of the state, as well as to protect the interest of the salvors who have invested considerable time and money in the salvage expedition.

Sec. 2. Section 3, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 17, chapter 266, Laws of 1986 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 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. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(5) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(6) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

(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.

(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.

(9) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

NEW SECTION. Sec. 3. All historic archaeological resources abandoned for thirty years or more in, on, or under the surface of any public lands or waters owned by or under the possession, custody, or control of the state of Washington, including, but not limited to all ships, or aircraft, and any part or the contents thereof, and all treasure trove is hereby declared to be the property of the state of Washington.

Sec. 4. Section 6, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 18, chapter 266, Laws of 1986 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 remove, 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, including, but not limited to, 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 a written ((~~permission~~)) permit from the director for such activities on public property or written permission from the private landowner for such activities on private land. A private landowner may request the director to assume the duty of issuing such permits. The director must obtain the consent of the public property owner or agency responsible for the management thereof, prior to issuance of the permit. The public property landowner or agency responsible for the management of such land may condition its consent on the execution of a separate agreement, lease, or other real property conveyance with the applicant as may be necessary to carry out the legal rights or duties of the public property landowner or agency. The director, in consultation with the Washington state archaeological research center, shall develop guidelines for the issuance and processing of ((~~such~~)) permits. Such written ((~~permission~~)) permit and any agreement or lease or other conveyance required by any public property owner or agency responsible for management of such land 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~~)) which are not historic archaeological resources.

NEW SECTION. Sec. 5. Persons, firms, corporations, institutions, or agencies which discover a previously unreported historic archaeological resource on state-owned aquatic lands and report the site or location of such resource to the department shall have a right of first refusal to future salvage permits granted for the recovery of that resource, subject to the provisions of section 6 of this act. Such right of first refusal shall exist for five years from the date of the report. Should another person, firm, corporation, institution, or agency apply for a permit to salvage that resource, the reporting entity shall have sixty days to submit its own permit application and exercise its first refusal right, or the right shall be extinguished.

NEW SECTION. Sec. 6. The director is hereby authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, persons, firms, or corporations for the discovery and salvage of state-owned historic archaeological resources. Such contracts shall include but are not limited to the following terms and conditions:

(1) Historic shipwrecks:

(a) The contract shall provide for fair compensation to a salvor. "Fair compensation" means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.

(b) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.

(c) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

(d) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.

(e) The contract shall also provide that title to the objects shall pass to the salvor when the permit is issued. However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state.

(2) Historic aircraft:

(a) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purpose of that salvage operation is to recover the aircraft for a museum, historical society, nonprofit organization, or governmental entity.

(b) Title to the aircraft may only be passed by the state to one of the entities listed in (a) of this subsection.

(c) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (a) of this subsection or such other compensation as one of the entities listed in (a) of this subsection and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

(3) Other historic archaeological resources: The director, in his or her discretion, may negotiate the terms of such contracts.

NEW SECTION. Sec. 7. The salvor shall agree to mitigate any archaeological damage which occurs during the salvage operation. The department shall have access to all property recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties following completion of the salvage operation. The department shall also have the right to publish scientific

papers concerning the results of all research conducted as project mitigation.

The director has the right to refuse to issue a permit for salvaging an historic archaeological resource if that resource would be destroyed beyond mitigation by the proposed salvage operation. Any agency, institution, person, firm, or corporation which has been denied a permit because the resource would be destroyed beyond mitigation by their method of salvage shall have a right of first refusal for that permit at a future date should technology be found which would make salvage possible without destroying the resource. Such right of first refusal shall be in effect for sixty days after the director has determined that salvage can be accomplished by a subsequent applicant without destroying the resource.

No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract.

Sec. 8. Section 43.19.1919, chapter 8, Laws of 1965 as amended by section 11, chapter 21, Laws of 1975–'76 2nd ex. sess. and RCW 43.19-.1919 are each amended to read as follows:

The division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under section 3 of this 1988 act.

NEW SECTION. Sec. 9. A new section is added to chapter 79.90 RCW to read as follows:

After consultation with the director of community development, the department of natural resources may enter into agreements, leases, or other conveyances for archaeological activities on state-owned aquatic lands. Such agreements, leases, or other conveyances may contain such conditions as are required for the department of natural resources to comply with its

legal rights and duties. All such agreements, leases, or other conveyances, shall be issued in accordance with the terms of chapters 79.90 through 79-.96 RCW.

NEW SECTION. Sec. 10. The department of community development shall publish annually and update as necessary a list of those areas where permits are required to protect historic archaeological sites on aquatic lands.

NEW SECTION. Sec. 11. The department of community development shall have such rule-making authority as is necessary to carry out the provisions of this chapter.

NEW SECTION. Sec. 12. Any proceeds from the state's share of property under this chapter shall be transmitted to the state treasurer for deposit in the general fund to be used only for the purposes of historic preservation and underwater archaeology.

NEW SECTION. Sec. 13. This act shall not affect any ongoing salvage effort in which the state has entered into separate contracts or agreements prior to the effective date of this act.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. Sections 3, 5 through 7, and 10 through 12 of this act are each added to chapter 27.53 RCW.

NEW SECTION. Sec. 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 125

[Second Substitute House Bill No. 1640]

G. ROBERT ROSS DISTINGUISHED FACULTY AWARD—FUTURE TEACHERS' CONDITIONAL SCHOLARSHIP PROGRAM, WAIVER OF GRADE-POINT CRITERIA—COLLEGE SAVINGS BOND ACT

AN ACT Relating to higher education; amending RCW 28B.10.870; amending section 12, chapter 8, Laws of 1987 (uncodified); adding a new section to chapter 28B.102 RCW; adding a new section to Title 28B RCW; adding a new chapter to Title 28B RCW; creating a new section; and making an appropriation.

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

NEW SECTION. Sec. 1. The legislature finds that G. Robert Ross, immediate past president of Western Washington University, was an exemplary university president who helped lead his school to a position of increasing excellence and national prominence. Dr. Ross was a convincing spokesperson for excellence in all areas of education and was a leader who strongly encouraged the faculty and staff at Western Washington University to be actively involved in the pursuit of scholarly activities.

The legislature wishes to honor the public spirit, dedication, integrity, perseverance, inspiration, and accomplishments of Western Washington University faculty through the creation of the G. Robert Ross Distinguished Faculty Award.

NEW SECTION. Sec. 2. The G. Robert Ross distinguished faculty award is hereby established. The board of trustees at Western Washington University shall establish the guidelines for the selection of the recipients of the G. Robert Ross distinguished faculty award. The board shall establish a local endowment fund for the deposit of all state funds appropriated for this purpose and any private donations. The board shall administer the endowment fund and the award. The principal of the invested endowment fund shall not be invaded and the proceeds from the endowment fund may be used to supplement the salary of the holder of the award, to pay salaries of his or her assistants, and to pay expenses associated with the holder's scholarly work.

Sec. 3. Section 5, chapter 8, Laws of 1987 and RCW 28B.10.870 are each amended to read as follows:

All state four-year institutions of higher education shall be eligible for matching trust funds. An institution may apply to the higher education coordinating board for two hundred fifty thousand dollars from the fund when the institution can match the state funds with an equal amount of pledged or contributed private donations or with funds received through legislative appropriation specifically for the G. Robert Ross distinguished faculty award and designated as being qualified to be matched from trust fund moneys. These donations shall be made specifically to the professorship program, and shall be donated after July 1, 1985.

Upon an application by an institution, the board may designate two hundred fifty thousand dollars from the trust fund for that institution's pledged professorship. If the pledged two hundred fifty thousand dollars is not received within three years, the board shall make the designated funds available for another pledged professorship.

Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the professorship.

Sec. 4. Section 12, chapter 8, Laws of 1987 (uncodified) is amended to read as follows:

(1) For the biennium ending June 30, 1989, all appropriations to the Washington distinguished professorship trust fund shall be allocated as provided in this section. The state treasurer shall reserve the following amounts in the trust fund for distribution to four-year higher education institutions at such time as qualifying gifts as defined in section 1 of this act for distinguished professorships have been deposited:

(a) ((~~Forty-five percent~~)) Two million two hundred fifty thousand dollars of the appropriation for the University of Washington;

(b) ((~~Thirty percent~~)) One million five hundred thousand dollars of the appropriation for Washington State University;

(c) ((~~Twenty-five percent~~)) One million dollars of the appropriation divided among Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College.

(2) Distribution of funds allocated in subsection (1)(c) of this section shall be made in the following manner: Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College are guaranteed one professorship. ((~~The remaining professorship shall be allocated on a first come first served basis to a regional university or The Evergreen State College which has used the professorship guaranteed it, and qualified for an additional professorship under section 5 of this act. If the regional universities and The Evergreen State College have not obligated the unassigned professorship by May 1, 1989, that professorship may be allocated to either the University of Washington or Washington State University in accordance with rules promulgated by the higher education coordinating board.~~))

(3) As of January 1, 1989, if any funds reserved in subsection (1) (a) or (b) of this section have not been designated as matching funds for qualifying gifts, any four-year institution of higher education, which has already fully utilized the professorships allocated to it by this section, and, in the case of the regional universities and The Evergreen State College, has exhausted the allocation in subsection (1)(c) of this section, may be eligible for such funds under rules promulgated by the higher education coordinating board.

NEW SECTION. Sec. 5. The sum of two hundred fifty thousand dollars is appropriated for the biennium ending June 30, 1989, from the state general fund to the Western Washington University for deposit in the G. Robert Ross distinguished faculty endowment fund. The appropriation in this section shall fulfill the matching requirements in RCW 28B.10.870 for an additional two hundred fifty thousand dollars from the distinguished professorship trust fund. This appropriation along with the matching money from the distinguished professorship trust fund will result in a total amount

of five hundred thousand dollars to be deposited into the G. Robert Ross distinguished faculty endowment fund.

NEW SECTION. Sec. 6. Section 2 of this act is added to Title 28B RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 28B.102 RCW to read as follows:

The board may waive grade point requirements for an otherwise eligible individual student under special circumstances.

NEW SECTION. Sec. 8. The legislature finds it essential that this and future generations of children be allowed the fullest opportunity to learn and to develop their intellectual and mental capacities and skills at the postsecondary level. The legislature is greatly concerned about the ever-increasing costs of obtaining higher education. The purpose of this chapter is to assist Washington residents in their quest for higher education and to encourage financial planning to meet higher education costs by creating a college savings bond program.

NEW SECTION. Sec. 9. The following definitions shall apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "College savings bonds" or "bonds" are Washington state general obligation bonds, issued under the authority of and in accordance with this chapter.

(2) "Board" means the higher education coordinating board, or any successor thereto.

NEW SECTION. Sec. 10. For the purpose of providing funds for the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the state institutions of higher education, including facilities for the state community college system, and to provide for the administrative costs of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue college savings bonds of the state of Washington in the sum of fifty million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section shall be sold in such a manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. The bonds shall not be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit 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 college savings bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute

a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

If, and to the extent that the state finance committee determines it is economically feasible and in the best interest of the state, the bonds shall be sold at a deep discount from their par value.

College savings bonds authorized under this section shall be sold in accordance with chapter 39.42 RCW.

NEW SECTION. Sec. 11. The proceeds from the sale of the bonds authorized in section 10 of this act shall be deposited in the state building construction account of the general fund in the state treasury, and shall be used exclusively for the purposes specified in section 10 of this act and for the payment of expenses incurred in the issuance and sale of the college savings bonds.

NEW SECTION. Sec. 12. The state higher education bond retirement fund of 1988 is hereby created in the state treasury, and shall be used for the payment of principal and interest on the college savings bonds.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1988, such amounts and at such times as are required by the bond proceedings. If directed by the state finance committee by resolution, the state higher education bond retirement fund of 1988, or any portion thereof, may be deposited in trust with any qualified public depository.

The owner and holder of each of the college savings bonds or the trustee for the owner and holder of any of the college savings bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 13. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the college savings bonds. Section 12 of this act shall not be deemed to provide an exclusive method for the payment thereof.

NEW SECTION. Sec. 14. The college savings bonds shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

NEW SECTION. Sec. 15. The board and the state finance committee shall evaluate the effectiveness of the college savings bond program created by this chapter, and shall submit a report about the program, and recommended changes, to the governor and the appropriate standing committees of the senate and house of representatives on or before December 1, 1990.

In the report, the board shall consider the advisability of offering incentives to purchase college savings bonds.

NEW SECTION. Sec. 16. The board and the state finance committee shall create and implement marketing strategies and educational programs designed to publicize the college savings bond program to Washington residents.

NEW SECTION. Sec. 17. Any interest earned on the bonds shall not be income for the purposes of any state income tax.

NEW SECTION. Sec. 18. This chapter may be known and cited as the college savings bond act of 1988.

NEW SECTION. Sec. 19. Sections 8 through 18 of this act shall constitute a new chapter in Title 28B RCW.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 126

[Substitute House Bill No. 1683]

MOBILE HOME LANDLORD-TENANT ACT VIOLATIONS—FINES FOR FAILURE TO REMEDY

AN ACT Relating to civil remedies for violation of the mobile home landlord-tenant act; amending RCW 59.20.190; and prescribing penalties.

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

Sec. 1. Section 22, chapter 304, Laws of 1981 and RCW 59.20.190 are each amended to read as follows:

The state board of health shall adopt rules on or before January 1, 1982, setting health and sanitation standards for mobile home parks. Such rules shall be enforced by the city, county, city-county, or district health officer of the jurisdiction in which the mobile home park is located, upon notice of a violation to such health officer. Failure to remedy the violation after enforcement efforts are made may result in a fine being imposed on

the park owner, or tenant as may be applicable, by the enforcing governmental body of up to one hundred dollars per day, depending on the degree of risk of injury or illness to persons in or around the park.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 127

[Senate Bill No. 6370]

STATE AGENCY OBSOLETE REFERENCES CORRECTED

AN ACT Relating to obsolete references involving state agencies; amending RCW 35.63-.060, 35A.80.010, 43.21.050, 43.21.070, 43.21.080, 43.21.090, 43.21.200, 43.21.220, 43.21.230, 43.21.250, 43.21.260, 43.21.270, 43.21.280, 43.21.290, 43.21.300, 43.21.310, 43.21.320, 43.21-.330, 43.21.340, 43.21.360, 43.21.370, 43.21.390, 43.21.410, 43.21A.190, 43.27A.090, 43.27A-.130, 43.27A.220, 43.92.010, 70.95.160, 70.95.180, 78.06.030, 78.40.250, 79.08.080, 79.08.100, 80.40.040, 82.34.010, 82.34.100, 85.08.820, 86.24.030, 87.03.020, 87.03.170, 87.03.185, 87.03-.195, 87.03.210, 87.03.495, 87.03.555, 87.03.670, 87.03.750, 87.25.010, 87.25.020, 87.25.030, 87.25.050, 87.25.070, 87.25.090, 87.25.100, 87.25.120, 87.25.125, 87.25.130, 87.25.140, 87.48-.020, 87.48.040, 87.53.150, 87.56.010, 87.64.040, 87.64.060, 87.80.050, 87.84.010, 87.84.060, 87.84.061, 89.30.055, 89.30.058, 89.30.070, 90.14.041, 90.14.061, 90.14.091, 90.14.101, 90.14-.111, 90.16.060, 90.16.090, 90.22.030, 90.24.050, and 90.40.090; reenacting RCW 90.22.010; recodifying RCW 43.21.110, 43.21.130, 43.21.140, 43.21.160, 43.21.190, 43.21.200, 43.21.220, 43.21.230, 43.21.250, 43.21.260, 43.21.270, 43.21.280, 43.21.290, 43.21.300, 43.21.310, 43.21-.320, 43.21.330, 43.21.340, 43.21.350, 43.21.360, 43.21.370, 43.21.380, 43.21.390, 43.21.400, 43.21.410, 43.21.050, 43.21.070, 43.21.080, and 43.21.090; decodifying RCW 43.21.141, 43-.21A.060, 43.21A.400, 43.27A.080, 43.27A.120, and 43.27A.180; and repealing RCW 43.21-.010, 43.21.040, 43.21.060, 43.21.210, 43.21.240, 43.49.010, 43.49.020, 43.49.030, 43.49.040, 43.49.050, 43.49.060, and 43.49.070.

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

Sec. 1. Section 35.63.060, chapter 7, Laws of 1965 as amended by section 3, chapter 170, Laws of 1979 ex. sess. and RCW 35.63.060 are each amended to read as follows:

The commission may act as the research and fact finding agency of the municipality. To that end it may make such surveys, analyses, researches and reports as are generally authorized or requested by its council or board, or by the state with the approval of its council or board. The commission, upon such request or authority may also:

(1) Make inquiries, investigations, and surveys concerning the resources of the county, including but not limited to the potential for solar energy development and alternative means to encourage and protect access to direct sunlight for solar energy systems;

(2) Assemble and analyze the data thus obtained and formulate plans for the conservation of such resources and the systematic utilization and development thereof;

(3) Make recommendations from time to time as to the best methods of such conservation, utilization, and development;

(4) Cooperate with other commissions and with other public agencies of the municipality, state and United States in such planning, conservation, and development; and

(5) In particular cooperate with and aid the state within its territorial limits in the preparation of the state master plan provided for in RCW 43-.21A.— (RCW 43.21.190 as recodified by section 84 of this 1988 act) and in advance planning of public works programs.

Sec. 2. Section 35A.80.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.80.010 are each amended to read as follows:

A code city may provide utility service within and without its limits and exercise all powers to the extent authorized by general law for any class of city or town. The cost of such improvements may be financed by procedures provided for financing local improvement districts in chapters 35.43 through 35.54 RCW and by revenue and refunding bonds as authorized by chapters 35.41, 35.67 and 35.89 RCW and Title 85 RCW. A code city may protect and operate utility services as authorized by chapters 35.88, 35.91, 35.92, and 35.94 RCW and may acquire and damage property in connection therewith as provided by chapter 8.12 RCW and shall be governed by the regulations of the ((~~pollution control commission~~)) department of ecology as provided in RCW 90.48.110.

Sec. 3. Section 43.21.050, chapter 8, Laws of 1965 and RCW 43.21-.050 are each amended to read as follows:

The ((~~director of conservation, through the division of geology,~~)) department of natural resources shall assume full charge and supervision of the state geological survey and perform such other duties as may be prescribed by law.

Sec. 4. Section 43.21.070, chapter 8, Laws of 1965 and RCW 43.21-.070 are each amended to read as follows:

The ((~~director of conservation, through the division of mines,~~)) department of natural resources shall:

(1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;

(2) Make special studies of the mineral resources and industries of the state;

(3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;

(4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;

(5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;

(6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;

(7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;

(8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;

(9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the ((~~director~~)) department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department ((~~of conservation~~)).

Sec. 5. Section 43.21.080, chapter 8, Laws of 1965 and RCW 43.21-.080 are each amended to read as follows:

The ((~~director~~)) department of natural resources may receive on behalf of the state, for the benefit of mining and mineral development, gifts, bequests, devises, and legacies of real or personal property and use them in accordance with the wishes of the donors and manage, use, and dispose of them for the best interests of mining and mineral development.

Sec. 6. Section 43.21.090, chapter 8, Laws of 1965 and RCW 43.21-.090 are each amended to read as follows:

The ((~~director~~)) department of natural resources may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state.

Sec. 7. Section 43.21.200, chapter 8, Laws of 1965 and RCW 43.21-.200 are each amended to read as follows:

The director may hold public hearings, in connection with any duty prescribed in RCW 43.21A.— (RCW 43.21.190 as recodified by section 84 of this 1988 act) and may compel the attendance of witnesses and the production of evidence.

Sec. 8. Section 43.21.220, chapter 8, Laws of 1965 and RCW 43.21-.220 are each amended to read as follows:

The department ((~~of conservation, through the division of power resources,~~)) shall make studies and surveys, collect, compile and disseminate information and statistics to facilitate development of the electric power resources of the state by public utility districts, municipalities, electric cooperatives, joint operating agencies and public utility companies. The director ((~~of conservation~~)) may cause studies to be made relating to the construction of steam generating plants using any available fuel and their integration with hydro-electric facilities. He may cause designs for any such plant to be prepared. He shall employ such engineers and other experts and assistants as may be necessary to carry ((~~on the work of the division of~~)) out his power resources functions. ((~~All reports, surveys, books, records and papers heretofore in possession or control of the Washington state power commission shall hereafter be in the custody of the division of power resources. All studies, surveys, information and statistics assembled by the division, including those formerly in possession or control of the Washington state power commission, shall be available to the public for reference.~~))

Sec. 9. Section 43.21.230, chapter 8, Laws of 1965 and RCW 43.21-.230 are each amended to read as follows:

The director ((~~of conservation~~)) may represent the state and aid and assist the public utilities therein to the end that its resources shall be properly developed in the public interest insofar as they affect electric power and to this end he shall cooperate and may negotiate with Canada, the United States, the states thereof and their agencies to develop and integrate the resources of the region.

Sec. 10. Section 43.21.250, chapter 8, Laws of 1965 and RCW 43.21-.250 are each amended to read as follows:

The director ((~~of conservation~~)) shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director ((~~of conservation~~)), the director ((~~of conservation~~)) may construct such plant at a site determined by him to be feasible and operate it as a state owned facility. ((~~The advisory committee provided for in RCW 43.21.240 shall advise the director of conservation in connection with the steam electric generating plant provided for herein.~~))

Sec. 11. Section 43.21.260, chapter 8, Laws of 1965 as amended by section 49, chapter 466, Laws of 1985 and RCW 43.21.260 are each amended to read as follows:

Before the director ((~~of conservation~~)) shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, he shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of

intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director ((~~of conservation~~)) thereof within ten days after the last date of publication of such notice. If the director ((~~of conservation~~)) determines that it is in the best public interest that the director ((~~of conservation~~)) proceed with such construction rather than the public utility or operating agency, he shall so notify the director of trade and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the director of trade and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, he shall enter an order so finding and such order shall divest the director ((~~of conservation~~)) of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director ((~~of conservation~~)) or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director ((~~of conservation~~)) shall have the same authority to proceed as though the director had originally entered an order so authorizing the director ((~~of conservation~~)) to proceed. If, after considering the evidence introduced, the director of trade and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, he shall then enter an order so finding and authorizing the director ((~~of conservation~~)) to proceed with the construction or acquisition of the facility.

Sec. 12. Section 43.21.270, chapter 8, Laws of 1965 and RCW 43.21-.270 are each amended to read as follows:

In order to construct, operate and maintain the single steam power electric generating plant provided for in RCW 43.21.250 the director ((~~of conservation~~)) shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including

but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director ((~~of conservation~~)) shall not be authorized to acquire by condemnation any plant, work and facility owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(4) To establish rates for electric energy sold or transmitted by the director ((~~of conservation~~)). When any revenue bonds or warrants are outstanding the director ((~~of conservation~~)) shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director ((~~of conservation~~)) which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director ((~~of conservation~~)) is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director ((~~of conservation~~)) and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director ((~~of conservation~~)) may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director.

Sec. 13. Section 43.21.280, chapter 8, Laws of 1965 and RCW 43.21-.280 are each amended to read as follows:

For the purpose of carrying out any or all of the powers herein granted the director ((~~of conservation~~)) shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to RCW 43.21A.— through 43.21A.— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04 RCW. The director ((~~of conservation~~)) may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within

the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director ((~~of conservation~~)) into possession of any property condemned.

Sec. 14. Section 43.21.290, chapter 8, Laws of 1965 and RCW 43.21-.290 are each amended to read as follows:

The director ((~~of conservation~~)) shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of RCW 43.21A.—— through 43.21A.—— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act).

No revenues received by the director ((~~of conservation~~)) for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the director ((~~of conservation~~)) and all such revenues and receipts shall be kept and maintained in a separate fund.

Sec. 15. Section 43.21.300, chapter 8, Laws of 1965 and RCW 43.21-.300 are each amended to read as follows:

For the purposes provided for in RCW 43.21A.—— through 43-.21A.——(RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act), the state finance committee shall, upon being notified to do so by the director ((~~of conservation~~)), issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in RCW 43.21A.—— (RCW 43.21.250 as recodified by section 84 of this 1988 act). When the director ((~~of conservation~~)) deems it advisable that he acquire or construct said steam electric plant or make additions or betterments thereto, he shall so notify the state finance committee and he shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of RCW 43-.21A.—— through 43.21A.—— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) shall distinctly state that they are not a general obligation of the state.

Sec. 16. Section 43.21.310, chapter 8, Laws of 1965 and RCW 43.21-.310 are each amended to read as follows:

When the state finance committee issues revenue bonds as provided in RCW 43.21A.— (RCW 43.21.300 as recodified by section 84 of this 1988 act), it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director ((~~of conservation~~)) to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross revenue of the steam electric utility and all additions or betterments thereto or extensions thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at such rates payable semiannually as the state finance committee shall determine.

Sec. 17. Section 43.21.320, chapter 8, Laws of 1965 and RCW 43.21-.320 are each amended to read as follows:

In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director ((~~of conservation~~)) will be available over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto, but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it.

Sec. 18. Section 43.21.330, chapter 8, Laws of 1965 and RCW 43.21-.330 are each amended to read as follows:

The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services, facilities, and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director ((~~of conservation~~)) from the operation, ownership, and management of its steam electric utility.

Sec. 19. Section 43.21.340, chapter 8, Laws of 1965 as last amended by section 61, chapter 56, Laws of 1970 ex. sess. and RCW 43.21.340 are each amended to read as follows:

All bonds issued under or by authority of RCW 43.21A.— through 43.21A.— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests.

Sec. 20. Section 43.21.360, chapter 8, Laws of 1965 and RCW 43.21-.360 are each amended to read as follows:

When revenue bonds are outstanding the director ((~~of conservation~~)) shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director ((~~of conservation~~)) which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director ((~~of conservation~~)) is obligated to make to the state treasurer for deposit in any

special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof.

Sec. 21. Section 43.21.370, chapter 8, Laws of 1965 and RCW 43.21-.370 are each amended to read as follows:

When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director ((~~of conservation~~)), may by resolution provide for the issuance of refunding revenue bonds with which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement, subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance committee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in RCW 43.21A.—— through 43.21A.—— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) with respect to revenue bonds.

Sec. 22. Section 43.21.390, chapter 8, Laws of 1965 and RCW 43.21-.390 are each amended to read as follows:

The provisions of RCW 43.21A.—— through 43.21A.—— (RCW 43-.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of RCW 43.21A.—— through 43.21A.—— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction.

Sec. 23. Section 43.21.410, chapter 8, Laws of 1965 and RCW 43.21-.410 are each amended to read as follows:

Nothing in RCW 43.21A.—— through 43.21A.—— (RCW 43.21.250 through 43.21.410 as recodified by section 84 of this 1988 act) shall authorize or empower the director ((~~of conservation~~)) to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating

hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation.

Sec. 24. Section 19, chapter 62, Laws of 1970 ex. sess. and RCW 43-.21A.190 are each amended to read as follows:

It shall be the duty of the members of the commission to provide advice and guidance to the director on each of the following:

(1) Any positions proposed to be taken by the department on behalf of the state before interstate and federal agencies or federal legislative bodies on matters relating to or affecting the quality of the environment of the state;

(2) Any comprehensive environment quality plan, program or policy proposed for adoption by the department as a state plan or policy pertaining to an environmental management activity;

(3) Any procedures for the financial assistance grants proposed to be given to municipal, regional, county or state organizations for environmental quality purposes;

(4) Any procedures for considering applications for and granting variances;

(5) Any proposal developed for submission to the legislature as a departmental request bill;

(6) Any other matter pertaining to the activities of the department submitted by the director for which advice and guidance is requested.

The director shall submit in writing to each member of the commission all rules and regulations, other than for procedural matters, proposed by him for adoption in accordance with the procedures of chapter 34.04 RCW. Unless, within thirty days of such notification, five of the members of the commission, notify the director in writing of their disapproval of such proposed rules and regulations and their reasons therefor, such rules and regulations shall be adopted by the director in accordance with the procedures of chapter 34.04 RCW.

No powers, duties and functions relating to water resources authorized to be performed by the department of ((~~water resources~~)) ecology, or the director thereof, by the terms of chapter 43.27A RCW or otherwise((~~, including those assigned by action of the 1970 legislature~~)) shall be affected by this section.

Sec. 25. Section 9, chapter 242, Laws of 1967 and RCW 43.27A.090 are each amended to read as follows:

((~~Notwithstanding, and in addition to powers, duties, and functions previously transferred to the department under this chapter,~~)) The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint

interstate or federal–state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make contracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, water works, watershed protection and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the

congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended.

Sec. 26. Section 15, chapter 242, Laws of 1967 and RCW 43.27A.130 are each amended to read as follows:

The ((~~department of natural resources shall exercise the powers, duties, and functions of the director of the department of conservation with respect to the powers, duties, and functions concerning geology as set forth in RCW 43.21.050 and chapter 43.92 RCW, and such powers, duties, and functions are hereby transferred to the department of natural resources: PROVIDED, That nothing in this section shall be construed to prohibit the~~)) department of ((~~water resources from making~~)) ecology may make complete inventories of the state's water resources and ((~~entering~~)) enter into such agreements with the director of the United States geological survey as will insure that investigations and surveys are carried on in an economical manner.

Sec. 27. Section 11, chapter 284, Laws of 1969 ex. sess. and RCW 43-.27A.220 are each amended to read as follows:

Whenever the word "person" is used in RCW 43.27A.190 ((~~through 43.27A.210~~)), it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever.

Sec. 28. Section 43.92.010, chapter 8, Laws of 1965 and RCW 43.92-.010 are each amended to read as follows:

There shall be a geological survey of the state which shall be under the direction of the ((~~director of conservation~~)) commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor

of the survey a geologist of established reputation, to be known as the supervisor of geology.

Sec. 29. Section 16, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.160 are each amended to read as follows:

Each county, or any city, or jurisdictional board of health shall adopt regulations or ordinances governing solid waste handling implementing the comprehensive solid waste management plan covering storage, collection, transportation, treatment, utilization, processing and final disposal including the issuance of permits. Such regulations or ordinances shall assure that solid waste storage and disposal facilities are located, maintained, and operated in a manner so as properly to protect the public health, prevent air and water pollution, and avoid the creation of nuisances. Such regulations or ordinances may be more stringent than the minimum functional standards adopted by the department. Regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department ((~~of environmental quality~~)).

Sec. 30. Section 18, chapter 134, Laws of 1969 ex. sess. and RCW 70-.95.180 are each amended to read as follows:

(1) Applications for permits to operate new or existing solid waste disposal sites shall be on forms prescribed by the department ((~~of environmental quality~~)) and shall contain a description of the proposed and existing facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the jurisdictional health department may deem necessary in order to determine whether the site and solid waste disposal facilities located thereon will comply with local and state regulations.

(2) Upon receipt of an application for a permit to establish, alter, expand, improve, or continue in use a solid waste disposal site, the jurisdictional health department shall refer one copy of the application to the department ((~~of environmental quality~~)) which shall report its findings to the jurisdictional health department.

(3) The jurisdictional health department shall investigate every application as may be necessary to determine whether an existing or proposed site and facilities meet all applicable laws and regulations, and conforms with the approved comprehensive solid waste handling plan, and complies with all zoning requirements.

(4) When the jurisdictional health department finds that the permit should be issued, it shall issue such permit. Every application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department.

(5) The jurisdictional board of health may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

Sec. 31. Section 3, chapter 119, Laws of 1959 and RCW 78.06.030 are each amended to read as follows:

All county auditors receiving for filing duplicate copies of geological, geochemical, and geophysical survey reports on mining claims shall forward, monthly, one copy of each report received to the ((~~division of mines and geology of the~~)) department of ((~~conservation~~)) natural resources.

Sec. 32. Section 56, chapter 36, Laws of 1917 as amended by section 1, chapter 87, Laws of 1947 and RCW 78.40.250 are each amended to read as follows:

The original or true copies of all such maps shall be kept in the office of the mine, and prints thereof shall also be furnished to the mine inspector, and to the ((~~division of mines and geology of the~~)) department of ((~~conservation and development~~)) natural resources. The maps so delivered to the inspector shall be the property of the state, and shall remain in the custody of the inspector during the term of his office, and be delivered by him to his successor in office; they shall be kept at the office of the inspector, and be open only to the inspector or his deputy for his examination, and he shall not permit any copies of the same to be made. The maps delivered to the ((~~division of mines and geology~~)) department of natural resources shall be the property of the state and be kept ((~~in the custody of the supervisor of the division~~)) as a permanent record in ((~~his~~)) the department's files, and shall be held as confidential information unless released by written permission of the owner or operator.

Sec. 33. Section 1, chapter 157, Laws of 1939 and RCW 79.08.080 are each amended to read as follows:

Whenever application is made to the commissioner of public lands by any incorporated city or town or metropolitan park district for the use of any state owned tide or shore lands within the corporate limits of said city or town or metropolitan park district for municipal park and/or playground purposes, he shall cause such application to be entered in the records of his office, and shall then forward the same to the governor, who shall appoint a committee of five representative citizens of said city or town, in addition to the commissioner of public lands and the director of ((~~conservation and development~~)) ecology, both of whom shall be ex officio members of said committee, to investigate said lands and determine whether they are suitable and needed for such purposes; and, if they so find, the land commissioner shall certify to the governor that the property shall be deeded to the said city or town or metropolitan park district and the governor shall then execute a deed in the name of the state of Washington, attested by the secretary of state, conveying the use of such lands to said city or town or metropolitan park district for said purposes for so long as it shall continue to hold, use and maintain said lands for such purposes.

Sec. 34. Section 3, chapter 157, Laws of 1939 and RCW 79.08.100 are each amended to read as follows:

The director of ((~~conservation and development~~)) ecology, in addition to serving as an ex officio member of any such committee, is hereby authorized and directed to assist any such city or town or metropolitan park district in the development and decoration of any lands so conveyed and to furnish trees, grass, flowers and shrubs therefor.

Sec. 35. Section 5, chapter 201, Laws of 1963 and RCW 80.40.040 are each amended to read as follows:

Any natural gas company desiring to exercise the right of eminent domain to condemn any property or interest in property for the underground storage of natural gas shall first make application to the oil and gas conservation committee for an order approving the proposed project. Notice of such application shall be given by the committee to the utilities and transportation commission, to the director of ((~~the department of conservation~~)) ecology, to the commissioner of public lands, and to all other persons known to have an interest in the property to be condemned. Said notice shall be given in the manner provided by RCW 8.20.020 as amended. The committee shall publish notice of said application at least once each week for three successive weeks in some newspaper of general circulation in the county or counties where the proposed underground storage project is located. If no written requests for hearing on the application are received by the committee within forty–five days from the date of service of notice of the application and publication thereof, the committee may proceed without hearing and issue its order. If a hearing is requested, a public hearing on the application will be held within the county or one of the counties where the proposed underground storage project is located. Any order approving the proposed underground storage project shall contain findings that (1) the underground storage of natural gas in the lands or property sought to be condemned is in the public interest and welfare; (2) the underground reservoir is reasonably practicable, and the applicant has complied with all applicable oil and gas conservation laws of the state of Washington; (3) the underground reservoir sought to be condemned is nonproductive of economically recoverable valuable minerals or materials, or of oil or gas in commercial quantities under either primary or secondary recovery methods, and nonproductive of fresh water in commercial quantities with feasible and reasonable pumping lift; (4) the natural gas company has acquired the right by grant, lease or other agreement to store natural gas under at least sixty–five percent of the area of the surface of the land under which such proposed underground storage reservoir extends; (5) the natural gas company carries public liability insurance or has deposited collateral in amounts satisfactory to the committee or has furnished a financial statement showing assets in a satisfactory amount, to secure payment of any liability resulting from any occurrence arising out of or caused by the operation or use of any

underground reservoir or facilities incidental thereto; (6) the underground storage project will not injure, pollute, or contaminate any usable fresh water resources; (7) the underground storage project will not injure, interfere with, or endanger any mineral resources or the development or extraction thereof. The order of the committee may be reviewed in the manner provided by chapter 34.04 RCW: PROVIDED, That if an appeal is not commenced within thirty days of the date of the order of the committee, the same shall be final and conclusive.

Sec. 36. Section 1, chapter 139, Laws of 1967 ex. sess. as last amended by section 1, chapter 42, Laws of 1984 and RCW 82.34.010 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words as hereinafter used in this chapter shall have the following meanings:

(1) "Facility" shall mean an "air pollution control facility" or a "water pollution control facility" as herein defined: (a) "Air pollution control facility" includes any treatment works, control devices and disposal systems, machinery, equipment, structures, property or any part or accessories thereof, installed or acquired for the primary purpose of reducing, controlling or disposing of industrial waste which if released to the outdoor atmosphere could cause air pollution. "Air pollution control facility" shall not mean any motor vehicle air pollution control devices used to control the emission of air contaminants from any motor vehicle. (b) "Water pollution control facility" includes any treatment works, control device or disposal system, machinery, equipment, structures, property or any accessories thereof installed or acquired for the primary purpose of reducing, controlling or disposing of sewage and industrial waste which if released to a water course could cause water pollution: PROVIDED, That the word "facility" shall not be construed to include any control device, machinery, equipment, structure, disposal system or other property installed or constructed: For a municipal corporation other than for coal-fired, steam electric generating plants constructed and operated pursuant to chapter 54.44 RCW for which an application for a certificate was made no later than December 31, 1969, together with any air or water pollution control facility improvement which may be made hereafter to such plants; or for the primary purpose of connecting any commercial establishment with the waste collecting facilities of public or privately owned utilities: PROVIDED FURTHER, That the word "facility" shall not include any control device, machinery, equipment, structure, disposal system, or other property installed or constructed with the proceeds derived from the sale of industrial revenue bonds issued under chapter 39.84 RCW.

(2) "Industrial waste" shall mean any liquid, gaseous, radioactive or solid waste substance or combinations thereof resulting from any process of

industry, manufacture, trade or business, or from the development or recovery of any natural resources.

(3) "Treatment works" or "control device" shall mean any machinery, equipment, structure or property which is installed, constructed or acquired for the primary purpose of controlling air or water pollution and shall include, but shall not be limited to such devices as precipitators, scrubbers, towers, filters, baghouses, incinerators, evaporators, reservoirs, aerators used for the purpose of treating, stabilizing, incinerating, holding, removing or isolating sewage and industrial wastes.

(4) "Disposal system" shall mean any system containing treatment works or control devices and includes but is not limited to pipelines, outfalls, conduits, pumping stations, force mains, solids handling equipment, instrumentation and monitoring equipment, ducts, fans, vents, hoods and conveyors and all other construction, devices, appurtenances and facilities used for collecting or conducting, sewage and industrial waste to a point of disposal, treatment or isolation except that which is necessary to manufacture of products.

(5) "Certificate" shall mean a pollution control tax exemption and credit certificate for which application has been made not later than December 31, 1969, except as follows:

(a) With respect to a facility required to be installed, such application will be deemed timely made if made not later than November 30, 1981, and within one year after the effective date of specific requirements for such facility promulgated by the appropriate control agency.

(b) With respect to a water pollution control facility for which an application was made in anticipation of specific requirements for such facility being promulgated by the appropriate control agency, an application will be deemed timely made if made during November, 1981, and subsequently denied, and if an appeal of the agency's denial of the application was filed in a timely manner.

(c) With respect to a facility for which plans and specifications were approved by the appropriate control agency, an application will be deemed timely made if made during November, 1981, and subsequently denied, and if an appeal of the agency's denial of the application was filed in a timely manner.

(d) For the purposes of (a), (b), and (c) of this subsection, "facility" means a facility installed in an industrial, manufacturing, waste disposal, utility, or other commercial establishment which is in operation or under construction as of July 30, 1967.

(6) "Appropriate control agency" shall mean the ((~~state water pollution control commission~~)) department of ecology; or the operating local or regional air pollution control agency within whose jurisdiction a facility is or will be located, or the ((~~state air pollution control board~~)) department of ecology, where the facility is not or will not be located within the area of an

operating local or regional air pollution control agency, or where the ((~~state air pollution control board~~)) department of ecology has assumed jurisdiction.

(7) "Department" shall mean the department of revenue.

Sec. 37. Section 10, chapter 139, Laws of 1967 ex. sess. and RCW 82-.34.100 are each amended to read as follows:

The ((~~water pollution control commission or the state air pollution control board~~)) department of ecology, after notice to the department and the applicant and after affording the applicant an opportunity for a hearing, shall, on its own initiative or on complaint of the local or regional air pollution control agency in which an air pollution control facility is located, or is expected to be located, revise the prior findings of the appropriate control agency whenever any of the following appears:

(1) The certificate or supplement thereto was obtained by fraud or misrepresentation, or the holder of the certificate has failed substantially without good cause to proceed with the construction, reconstruction, installation or acquisition of a facility or without good cause has failed substantially to operate the facility for the purpose specified by the appropriate control agency in which case the department shall modify or revoke the certificate. If the certificate and/or supplement are revoked, all applicable taxes from which an exemption has been secured under this chapter or against which the credit provided for by this chapter has been claimed shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. No statute of limitations shall operate in the event of fraud or misrepresentation.

(2) The facility covered by the certificate or supplement thereto is no longer operated primarily for the purpose of the control or reduction of water pollution or the control, capture, and removal of pollutants from the air, as the case may be, or is no longer suitable or reasonably adequate to meet the intent and purposes of chapter 70.94 RCW or chapter 90.48 RCW, in which case the certificate shall be modified or revoked.

(3) Upon the date of mailing by certified mail to the certificate holder of notice of the action of the department modifying or revoking a certificate or supplement, the certificate or supplement shall cease to be in force or shall remain in force only as modified.

Sec. 38. Section 1, chapter 140, Laws of 1925 ex. sess. and RCW 85-.08.820 are each amended to read as follows:

Whenever the department of ((~~conservation and development of the state of Washington~~)) ecology shall have purchased and the state of Washington owns the entire issue of any series of bonds of any county in the state, the payment of which is to be made from and is secured by assessments upon the property included within any drainage improvement district organized and existing in such county, and it shall appear to the satisfaction of the director of ((~~conservation and development~~)) ecology that owing to

and by reason of the nature of the soil within and the topography of such drainage improvement district the lands contained therein were not or will not be drained sufficiently to permit the cultivation thereof within the time when assessments for the payment of the interest on said bonds and to constitute a sinking fund to retire said bonds as provided by law became or will become due, and that by reason thereof the owners of said lands were or will be unable to meet said assessment, the director of ((~~conservation and development~~)) ecology shall have the power and he is hereby authorized under such terms and conditions as he shall deem advisable to enter into a contract in writing with the board of county commissioners of the county issuing such bonds, waiving the payment of interest upon such bonds from the date of their issue for not to exceed five years, and extending the time of payment of said bonds for not to exceed five years; and upon the execution of said contract the board of county commissioners of said county shall have the power and is hereby authorized to cancel all assessments made upon the lands included within such drainage improvement district for the payment of principal and/or interest on said bonds prior to the date of said contract, and to omit the levy of any assessments for said purposes until the expiration of the time of the waiver of interest payments upon said bonds specified in said contract.

Sec. 39. Section 4, chapter 163, Laws of 1935 and RCW 86.24.030 are each amended to read as follows:

The state director of ((~~conservation~~)) ecology, when state funds shall be available therefor, shall have authority on behalf of the state to enter into contracts with the United States or any agency thereof and/or with any such flood control district, county, or counties so acting jointly, for flood control purposes for any such flood control district, county or counties so acting jointly, the amount of the state's participation in any such contract to be such sum as may be appropriated therefor, or, in event of unallocated state appropriations for flood control purposes, in such necessary sum as to any such contract as he shall determine.

Sec. 40. Section 2, page 671, Laws of 1889–90 as last amended by section 3, chapter 138, Laws of 1923 and RCW 87.03.020 are each amended to read as follows:

For the purpose of organizing an irrigation district, a petition, signed by the required number of holders of title or evidence of title to land within the proposed district, shall be presented to the board of county commissioners of the county in which the lands, or the greater portion thereof, are situated, which petition shall contain the following:

(1) A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which said lands are situated.

(2) The signature and post office address of each petitioner, together with the legal description of the particular lands within the proposed district owned by said respective petitioners.

(3) A general statement of the probable source or sources of water supply and a brief outline of the plan of improvement, which may be in the alternative, contemplated by the organization of the district.

(4) A statement of the number of directors, either three or five, desired for the administration of the district and of the name by which the petitioners desire the district to be designated.

(5) Any other matter deemed material.

(6) A prayer requesting the board to take the steps necessary to organize the district.

The petition must be accompanied by a good and sufficient bond, to be approved by the board of county commissioners, in double the amount of the probable cost of organizing the district, and conditioned that the bondsmen will pay all of the cost in case such organization shall not be effected. Said petition shall be presented at a regular meeting of the said board, or at any special meeting ordered to consider and act upon said petition, and shall be published once a week, for at least two weeks (three issues) before the time at which the same is to be presented, in some newspaper of general circulation printed and published in the county where said petition is to be presented, together with a notice signed by the clerk of the board of county commissioners stating the time of the meeting at which the same will be presented. There shall also be published a notice of the hearing on said petition in a newspaper published at Olympia, Washington, to be designated by the director of ((~~the department of conservation and development~~)) ecology from year to year, which said notice shall be published for at least two weeks (three issues) prior to the date of said meeting and shall contain the name of the county or counties and the number of each township and range in which the lands embraced within the boundaries of the proposed district are situated, also the time, place and purpose for said meeting, which said notice shall be signed by the petitioner whose name first appears upon the said petition. If any portion of the lands within said proposed district lie within another county or counties, then the said petition and notice shall be published for the time above provided in one newspaper printed and published in each of said counties. The said notice, together with a map of the district, shall also be served by registered mail at least thirty days before the said hearing upon the state director of ((~~the department of conservation and development~~)) ecology at Olympia, Washington, who shall, at the expense of the district in case it is later organized, otherwise at the expense of the petitioners' bondsmen, make such investigation((~~, through the division of hydraulics,~~)) of the sufficiency of the source and supply of water for the purposes of the proposed district, as he may deem necessary, and file a report of his findings, together with a statement of his costs, with the board of

county commissioners at or prior to the time set for said hearing. When the petition is presented, the board of county commissioners shall hear the same, shall receive such evidence as it may deem material, and may adjourn such hearing from time to time, not exceeding four weeks in all, and on the final hearing shall establish and define the boundaries of the district along such lines as in the judgment of the board will best reclaim the lands involved and enter an order to that effect: PROVIDED, That said board shall not modify the boundaries so as to except from the operation of the district any territory within the boundaries outlined in the petition, which is susceptible of irrigation by the same system of works applicable to other lands in such proposed district and for which a water supply is available; nor shall any lands which, in the judgment of said board, will not be benefited, be included within such district; any lands included within any district, which have a partial or full water right shall be given equitable credit therefor in the apportionment of the assessments in this act provided for: AND PROVIDED FURTHER, That any owner, whose lands are susceptible of irrigation from the same source, and in the judgment of the board it is practicable to irrigate the same by the proposed district system, shall, upon application to the board at the time of the hearing, be entitled to have such lands included in the district.

At said hearing the board shall also give the district a name and shall order that an election be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this act and for the purpose of electing directors.

The clerk of the board of county commissioners shall then give notice of the election ordered to be held as aforesaid, which notice shall describe the district boundaries as established, and shall give the name by which said proposed district has been designated, and shall state the purposes and objects of said election, and shall be published once a week, for at least two weeks (three issues) prior to said election, in a newspaper of general circulation published in the county where the petition aforesaid was presented; and if any portion of said proposed district lies within another county or counties, then said notice shall be published in like manner in a newspaper within each of said counties. Said election notice shall also require the electors to cast ballots which shall contain the words "Irrigation District——Yes," and "Irrigation District——No," and also the names of persons to be voted for as directors of the district: PROVIDED, That where in this act publication is required to be made in a newspaper of any county, the same may be made in a newspaper of general circulation in such county, selected by the person or body charged with making the publication and such newspaper shall be the official paper for such purpose.

Sec. 41. Section 7, chapter 138, Laws of 1923 and RCW 87.03.170 are each amended to read as follows:

Such examinations, surveys, maps, plans and specifications with estimates of cost as are deemed necessary for an understanding of the proposed plan of development shall be certified by the district board and its engineer and filed with the state director of ((~~the department of conservation and development~~)) ecology at Olympia, Washington.

Sec. 42. Section 7, chapter 138, Laws of 1923 and RCW 87.03.185 are each amended to read as follows:

In the case of an irrigation district under contract or in cooperation with the United States under the provisions of the United States Reclamation Act, the investigation and findings above required to be made by the state director of ((~~the department of conservation and development~~)) ecology may be made by the United States Reclamation Service with the same authority and under like conditions, if it so elects.

Sec. 43. Section 8, chapter 138, Laws of 1923 and RCW 87.03.195 are each amended to read as follows:

As to ((~~existing~~)) irrigation districts existing on March 17, 1923, the provisions of RCW 87.03.165 through 87.03.190 relating to the filing of examinations, surveys, maps, plans and specifications of the plan of development with the director of ((~~the department of conservation and development~~)) ecology and to an examination and the filing of findings and conclusions by that department, shall not apply.

Sec. 44. Section 16, page 681, Laws of 1889–90 as last amended by section 214, chapter 167, Laws of 1983 and RCW 87.03.210 are each amended to read as follows:

(1) The board may sell the bonds of the district or pledge the same to the United States from time to time in such quantities as may be necessary and most advantageous to raise money for the construction, reconstruction, betterment or extension of such canals and works, the acquisition of said property and property rights, the payment of outstanding district warrants when consented to in writing by the director of ((~~conservation and development~~)) ecology, and to such extent as shall be authorized at said election, the assumption of indebtedness to the United States for the district lands, and otherwise to fully carry out the objects and purposes of the district organization, and may sell such bonds, or any of them, at private sale whenever the board deems it for the best interest of the district so to do: PROVIDED, That no election to authorize bonds to refund outstanding warrants shall be held and canvassed after the expiration of the year 1934. The board of directors shall also have power to sell said bonds, or any portion thereof, at private sale, and accept in payment therefor, property or property rights, labor and material necessary for the construction of its proposed canals or irrigation works, power plants, power sites and lines in connection therewith, whenever the board deems it for the best interests of the district so to do. If the board shall determine to sell the bonds of the

district, or any portion thereof, at public sale, the secretary shall publish a notice of such sale for at least three weeks in such newspaper or newspapers as the board may order. The notice shall state that sealed proposals will be received by the board, at its office, for the purchase of the bonds to be sold, until the day and hour named in the notice. At the time named in the notice, the board shall open the proposals and award the purchase of the bonds to the highest responsible bidder and may reject all bids: PROVIDED, That such bonds shall not be sold for less than ninety percent of their face value: AND PROVIDED, FURTHER, That the proceeds of all bonds sold for cash must be paid by the purchaser to the county treasurer of the county in which the office of the board is located, and credited to the bond fund.

(2) Notwithstanding subsection (1) of this section, such bonds may also be issued and sold in accordance with chapter 39.46 RCW.

Sec. 45. Section 13, chapter 162, Laws of 1917 as last amended by section 3, chapter 70, Laws of 1970 ex. sess. and RCW 87.03.495 are each amended to read as follows:

The cost of the improvement and of the operation and maintenance thereof, if any, shall be especially assessed against the lands within such local improvement district in proportion to the benefits accruing thereto, and shall be levied and collected in the manner provided by law for the levy and collection of land assessments or toll assessments or both such form of assessments.

All provisions for the assessment, equalization, levy and collection of assessments for irrigation district purposes shall be applicable to assessments for local improvements except that no election shall be required to authorize said improvement or the expenditures therefor or the bonds issued to meet the cost thereof or the contract authorized in RCW 87.03.485 to repay the cost thereof. Assessments when collected by the county treasurer for the payment for the improvement of any local improvement district shall constitute a special fund to be called "bond redemption or contract repayment fund of local improvement district No. _____."

Bonds issued under this chapter shall be eligible for disposal to and purchase by the director of ((~~the department of conservation and development~~)) ecology under the provisions of the state reclamation act.

The cost or any unpaid portion thereof, of any such improvement, charged or to be charged or assessed against any tract of land may be paid in one payment under and pursuant to such rules as the board of directors may adopt, and all such amounts shall be paid over to the county treasurer who shall place the same in the appropriate fund. No such payment shall thereby release such tract from liability to assessment for deficiencies or delinquencies of the levies in such improvement district until all of the bonds or the contract, both principal and interest, issued or entered into for such local improvement district have been paid in full. The receipt given for

any such payment shall have the foregoing provision printed thereon. The amount so paid shall be included on the annual assessment roll for the current year, provided, such roll has not then been delivered to the treasurer, with an appropriate notation by the secretary that the amount has been paid. If the roll for that year has been delivered to the treasurer then the payment so made shall be added to the next annual assessment roll with appropriate notation that the amount has been paid.

Sec. 46. Section 47, page 694, Laws of 1889-90 as last amended by section 32, chapter 129, Laws of 1921 and RCW 87.03.555 are each amended to read as follows:

The boundaries of any irrigation district now or hereafter organized under the provisions of this chapter may be changed in the manner herein prescribed, but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made, except as hereinafter expressly in RCW 87.03.645 prescribed: PROVIDED, That in case contract has been made between the district and the United States, or the state of Washington, as in RCW 87-.03.140 provided, no change shall be made in the boundaries of the district, and the board of directors shall make no order changing the boundaries of the district until the secretary of the interior((~~, or the state reclamation board,~~)) or the director of ((~~conservation and development~~)) ecology shall assent thereto in writing and such assent be filed with the board of directors.

Sec. 47. Section 65, page 701, Laws of 1889-90 as last amended by section 40, chapter 129, Laws of 1921 and RCW 87.03.670 are each amended to read as follows:

If there be outstanding bonds of the district, or consolidated district, as the case may be, or if such district shall have entered into a contract with the United States, or the state of Washington, then the board may adopt a resolution to the effect that the board deems it to the best interest of the district that the lands mentioned in the petition, or some portion thereof, or the former district mentioned in the petition, as the case may be, should be excluded from the district, or consolidated district, and the former district reestablished. The resolution shall describe such lands so that the boundaries can readily be traced, or shall give the corporate name and number of the former district. The holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the board may make an order by which the lands, or the former district, mentioned in the resolution may be excluded from the district, and in case contract has been made with the United States, or the state of Washington, the secretary of the interior((~~, or the state reclamation board,~~)) or the director of ((~~conservation and development~~)) ecology may assent to such change. The assent

must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect, as evidence, as the acknowledgment of such conveyance. The assent of the secretary of the interior need not be acknowledged. The assent shall be filed with the board, and in the office of the county clerk in each county comprised within the district and must be recorded in the minutes of the board; and said minutes, or certified copy thereof, shall be admissible in evidence with the same effect as the said assent; but if such assent of the bondholders, and in case of contract with the United States, or the state of Washington, such assent of the secretary of the interior((~~, or the state reclamation board~~)) or the director of ((~~conservation and development~~)) ecology, be not filed, the board shall deny and dismiss said petition.

Sec. 48. Section 1, chapter 138, Laws of 1925 ex. sess. and RCW 87-.03.750 are each amended to read as follows:

Whenever any irrigation district organized and existing under the laws of this state, shall have entered into a contract, or contracts, with the department of ((~~conservation and development of the state of Washington~~)) ecology, for the sale to and purchase by the department of an entire authorized issue of the bonds of the district, for the purpose of procuring funds for district purposes, including the construction of an irrigation system for the district, and the department of ((~~conservation and development~~)) ecology has advanced, under such contract, or contracts, funds for such purposes, and such funds have been expended for the purposes advanced, and there are no outstanding bonds of the district other than those which the district has contracted to sell the department of ((~~conservation and development~~)) ecology, and it shall appear to the satisfaction of the board of directors of the district that the irrigation system, for the construction of which such funds were advanced and expended, will not furnish sufficient water for the successful irrigation of all of the lands within the district and that the district as constituted will be unable by assessments upon the lands of the district, as provided by law, to collect sufficient funds to meet the interest payments upon and pay the bonds at maturity, the board of directors of the district shall have the power by unanimous resolution to adopt a comprehensive proposed plan for reducing the boundaries of the district, excluding therefrom such portions of the lands of the district as in the judgment of the board cannot be furnished with sufficient water for successful irrigation, and refunding to the owners of such excluded lands, respectively, any moneys paid for assessments levied by the district upon the lands excluded, and to release any such excluded lands from all unpaid assessments levied by the district, which resolution shall give the boundaries to which it is proposed to reduce the district and the description of the lands it is proposed to exclude from the district by government subdivisions, or metes and bounds.

Sec. 49. Section 1, chapter 51, Laws of 1923 and RCW 87.25.010 are each amended to read as follows:

Whenever the board of directors of any irrigation district, organized and existing under and pursuant to the laws of the state of Washington, shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of such district, including any of its bonds authorized but not sold, be certified under the provisions of this chapter, such board of directors shall thereupon file a certified copy of such resolution with the director of ((~~the department of conservation and development of the state of Washington~~)) ecology. Such director on receipt of a certified copy of such resolution shall, without delay, make or cause to be made a full investigation of the affairs of the district.

Sec. 50. Section 2, chapter 51, Laws of 1923 and RCW 87.25.020 are each amended to read as follows:

In connection with the investigation and report provided for in this chapter, the director of ((~~the department of conservation and development~~)) ecology is authorized and directed to make written request upon any state officer, institution or department for information, opinion or advice relative to any features of such investigation pertinent to the work of such officer or department. Upon receipt of such written request from said director, such officer or department shall, without delay, make such investigation as may be necessary and shall then furnish the said director with a report in writing giving the information, opinion or advice required by said director.

Sec. 51. Section 3, chapter 51, Laws of 1923 and RCW 87.25.030 are each amended to read as follows:

If, after the investigation herein provided for, the director finds that the project of the district is feasible, that the bond issue proposed to be certified is necessary and in sufficient amount to complete the improvement contemplated and that the district shows a clear probability of successful operation, he shall submit a complete transcript, to be furnished and certified by the district, of the proceedings relating to the organization and establishment of the district and relating to or affecting the validity of the bond issue involved, to the attorney general, for his written opinion as to the legality of the same. If the attorney general finds that any of the matters submitted in the transcript are not legally sufficient he shall so state in his opinion to the director of ((~~the department of conservation and development~~)) ecology. The district shall then be given an opportunity, if possible, to correct the proceeding or thing complained of to the satisfaction of the attorney general. If the attorney general finds that all the matters submitted in the transcript as originally submitted or as subsequently corrected are legally sufficient said director shall thereupon file his report with the secretary of state and forward a copy to the secretary of the district, to be kept among the records of the district.

Sec. 52. Section 5, chapter 51, Laws of 1923 as amended by section 112, chapter 169, Laws of 1977 ex. sess. and RCW 87.25.050 are each amended to read as follows:

Attached to said report of said director shall be the following:

(1) A certificate signed by the ((~~supervisor of hydraulics~~)) director of ecology certifying to the amount and sufficiency of water rights available for the project.

(2) A certificate signed by a soil expert of the Washington State University, certifying as to the character of the soil and the classification of the lands in the district.

(3) A certificate signed by the ((~~supervisor of reclamation~~)) director of ecology approving the general feasibility of the system of irrigation.

(4) A certificate signed by the attorney general of the state of Washington approving the legality of the organization and establishment of the district and the legality of the bond issue offered for certification.

Sec. 53. Section 7, chapter 51, Laws of 1923 and RCW 87.25.070 are each amended to read as follows:

All bonds issued by any eligible district availing itself of the provisions of this chapter shall, before sale by the district, have attached thereto the certificate of the secretary of state, essentially in the following form:

Olympia, Washington, ... (Insert date) .....

I, ..., secretary of state of the state of Washington, do hereby certify that the above named district has been investigated and its project approved by the department of ((~~conservation and development~~)) ecology of the state of Washington; that the legality of the bond issue of which this bond is one has been approved by the attorney general of the state of Washington, and that the carrying out of the purposes for which this bond was issued is under the supervision of said department, as provided by law.

[Seal] .....

SECRETARY OF STATE.

Sec. 54. Section 8, chapter 51, Laws of 1923 and RCW 87.25.090 are each amended to read as follows:

All necessary expenses incurred in making the investigation, examination, opinions and reports in this chapter provided for shall be paid at such times and in such manner as the director of ((~~the department of conservation and development~~)) ecology shall require, by the irrigation district, the affairs of which have been investigated and reported on by the said director: PROVIDED, That the benefit of any service that may have been performed and any data that may have been obtained in pursuance of the requirements of any law other than this chapter, shall be available for the use of the director without charge to said district.

Sec. 55. Section 9, chapter 51, Laws of 1923 and RCW 87.25.100 are each amended to read as follows:

Whenever the bonds of any irrigation district have been certified, as provided in this chapter, no expenditures shall be made from the proceeds of such bonds, nor shall any liability chargeable against such proceeds be incurred, until there shall have been filed with and approved by the director of ((~~the department of conservation and development~~)) ecology a schedule of proposed expenditures in such form as said director shall prescribe, and no expenditures from the proceeds of said bonds shall be made for any purpose in excess of the amount allowed therefor in such schedule without the written consent of said director: PROVIDED, FURTHER, That, if it shall be necessary, the attorney general may employ competent attorneys to assist him in the performance of his duties under this chapter, said attorneys to be paid by the irrigation district for which services are rendered from any of the funds of said district at such time and in such manner as the attorney general shall require.

Sec. 56. Section 10, chapter 51, Laws of 1923 and RCW 87.25.120 are each amended to read as follows:

During the progress of any work to be paid for from the proceeds of any bond issue certified as in this chapter provided, the director of ((~~the department of conservation and development~~)) ecology shall make or cause to be made, from time to time, at the expense of the district, such inspection of the work as may be necessary to enable the said department to know that the plans approved by the director are being carried out without material modification, unless such modification has been approved by the director.

Sec. 57. Section 11, chapter 51, Laws of 1923 and RCW 87.25.125 are each amended to read as follows:

Whenever the survey, examinations, drawings, and plans of an irrigation district, and the estimate of cost based thereon, shall provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with a plan or schedule adopted by resolution of the board of directors of the district, it shall not be necessary for the secretary of state to certify at one time all of the bonds that have been voted for the said completed project; but such bonds may be certified from time to time, when approved by the director of ((~~the department of conservation and development~~)) ecology, as needed by the district. If the secretary of state shall certify all of the bonds necessary for the said completed project, even if said project is to be constructed progressively over a period of years in accordance with the aforesaid resolution of the board of directors, the bonds so voted and certified shall only be sold after prior written approval of said director.

Sec. 58. Section 12, chapter 51, Laws of 1923 and RCW 87.25.130 are each amended to read as follows:

Districts coming within the provisions of this chapter shall prepare and maintain all records of their operation and proceedings upon forms prescribed by the director of ((~~the department of conservation and development~~)) ecology.

Sec. 59. Section 13, chapter 51, Laws of 1923 and RCW 87.25.140 are each amended to read as follows:

When the bonds of any district have been certified as provided herein, it shall be unlawful for the district, during the life of said bonds to expend any money or incur any obligation for construction purposes without the written approval of the director of ((~~the department of conservation and development~~)) ecology, nor shall such district issue and sell any bonds not certified as herein provided, and the district shall annually at such time as said director shall prescribe, prepare and file with the director, on forms furnished by that officer, a budget of its contemplated expenditures for maintenance and operation during the ensuing year.

Sec. 60. Section 2, chapter 34, Laws of 1925 ex. sess. and RCW 87-.48.020 are each amended to read as follows:

When any such irrigation district shall have duly executed and tendered to the state of Washington the contract of indemnity as it is herein empowered to do, the director of ((~~conservation and development of the state of Washington~~)) ecology is hereby authorized, empowered and required to sign and execute such contract on behalf of the state of Washington. After having received any such contract of indemnity from any such irrigation district the said director of ((~~conservation and development~~)) ecology is hereby authorized, empowered and required to enter into a contract on behalf of the state of Washington with the United States relating to the land settlement in such district if such contract shall be presented, or tendered by the United States, which contract, if entered into on or before June 30, 1926, shall have the same terms and provisions of that certain contract submitted to the state of Washington under authority of the act of congress approved March 3rd, 1925, entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1926, and for other purposes." PROVIDED, That the liability of the state of Washington to the United States under such contract, if entered into on or before June 30, 1926, shall be limited to three hundred thousand dollars and be subject to appropriation therefor being made by the legislature. PROVIDED, FURTHER, That the said director of ((~~conservation and development~~)) ecology or any other officer of the state of Washington shall not enter into any such contract with the United States after June 30, 1926, unless and until any such contract shall have been presented to the legislature by the governor through the director of ((~~conservation and development~~)) ecology and approved by a joint resolution of the legislature, which resolution shall be passed by a constitutional majority of both branches of the legislature by roll call.

Sec. 61. Section 4, chapter 34, Laws of 1925 ex. sess. as amended by section 32, chapter 156, Laws of 1981 and RCW 87.48.040 are each amended to read as follows:

When the state of Washington shall be required to make any payment or expend any money in the performance of any such contract entered into with the United States, an estimate of the amount of expenses likely to be incurred in such performance, together with an estimate of future losses or damages that may occur under such contract shall be made by the director of ((~~conservation and development~~)) ecology, who shall thereupon return a statement thereof to such district, and the board of directors of such district shall from time to time as required by the director of ((~~conservation and development~~)) ecology levy against all the property within said district such assessments as may be necessary to repay to the state of Washington such estimated expenses, losses and damages. PROVIDED, If such district has no money in the "The Indemnity Fund" to repay such expenses when the same shall be incurred or to pay such losses and damages as the same shall accrue it shall be the duty of the board of directors to cause warrants of the district to be issued in payment of such indebtedness, which warrants shall bear interest at a rate determined by the board and be paid from moneys paid into the indemnity fund by assessments levied as hereinbefore provided.

Sec. 62. Section 15, chapter 237, Laws of 1951 and RCW 87.53.150 are each amended to read as follows:

Whenever any bonds of the district are held in the state reclamation revolving ((~~fund~~)) account, and, in the opinion of the director of ((~~conservation and development~~)) ecology, the district is or will be unable to meet its obligations, and that the state's investment can be best preserved by the dissolution of the district the director may give his consent to dissolution under such stipulations and adjustments of the indebtedness as he deems best for the state.

Sec. 63. Section 1, chapter 124, Laws of 1925 ex. sess. as amended by section 11, chapter 60, Laws of 1931 and RCW 87.56.010 are each amended to read as follows:

In all instances where fifty percent of the acreage within an irrigation district has been sold to the district on account of delinquent district assessments, and more than one year has elapsed since the sale of said property to the district without redemption by the owners thereof, and the district is unable to raise sufficient revenue to meet its obligations when the same become due and payable, such district shall be deemed insolvent and the district board shall have authority to call an election in the district to determine whether the district shall discontinue operation and dissolve: PROVIDED, That in case there are bonds of the district outstanding, written consent of the holders of at least fifty–one percent in amount of such outstanding bonds shall be obtained by the district board before calling said election: PROVIDED, FURTHER, That if any portion of such outstanding

bonds are owned by the state of Washington the board of directors of such district shall give written notice to the director of ((~~conservation and development~~)) ecology of the intention of the board of directors to call such election, and unless the director of ((~~conservation and development~~)) ecology shall sign written objection to the calling of such election within ten days after the giving of such notice the state shall be deemed as consenting thereto.

Said election shall be called, shall be conducted and the results canvassed in the same manner substantially provided by law for a bond election in the district.

Sec. 64. Section 4, chapter 121, Laws of 1929 as amended by section 2, chapter 39, Laws of 1941 and RCW 87.64.040 are each amended to read as follows:

Whenever the department of ((~~conservation and development~~)) ecology shall have heretofore entered, or shall hereafter enter, into a contract with an irrigation, diking or drainage district and shall have expended moneys under said contract, and said district shall be indebted to the state for the moneys so expended, and in the judgment of the director of ((~~conservation and development~~)) ecology said district shall have not received benefits equal to the amount of said indebtedness, the director of ((~~conservation and development~~)) ecology shall be and is hereby authorized and empowered to settle and compromise the claim of the state against said district upon such terms and for such an amount as he shall deem fair and just to the state and the district.

Sec. 65. Section 5, chapter 121, Laws of 1929 and RCW 87.64.060 are each amended to read as follows:

Whenever the director of ((~~conservation and development~~)) ecology shall find any irrigation district is, or will be unable to meet its obligations and that refunding operations under this chapter are necessary, and that as a part of such refunding operations the cancellation of assessments and county taxes on the irrigation system and the irrigable lands in such district then delinquent, is necessary, the board of county commissioners of the county in which such irrigation district is situated may, upon request of the director of ((~~conservation and development~~)) ecology, cancel any or all delinquent assessments and county taxes levied upon the irrigable lands in such district and all county taxes levied upon the irrigation system of such district, if such board shall find that such irrigation district is or will be unable to meet its obligations and such refunding operations are necessary, of which the report of the director of ((~~conservation and development~~)) ecology shall be prima facie evidence.

Sec. 66. Section 5, chapter 56, Laws of 1949 and RCW 87.80.050 are each amended to read as follows:

Notice of the hearing on said petition shall be given by the clerk of the board of county commissioners by publishing the same, at the cost of the board of control, if created, otherwise at the cost of the petitioners, in the official newspaper of the county in at least three weekly issues thereof: PROVIDED, That the time of the hearing shall not be less than thirty days from the date of the first publication of said notice. A copy of said notice shall be posted at the regular meeting place of the board of directors of each irrigation district concerned in the granting or denial of said petition and a copy of the notice shall be mailed to the department of ((~~conservation and development~~)) ecology at Olympia at least thirty days prior to the day of said hearing.

Sec. 67. Section 2, chapter 226, Laws of 1961 as amended by section 2, chapter 221, Laws of 1963 and RCW 87.84.010 are each amended to read as follows:

Any irrigation district having the major portion of an inland navigable body of water within its exterior boundaries and which has filed with the ((~~supervisor of water resources~~)) department of ecology and been granted a water right certificate for fifty thousand acre feet of water or more shall be eligible to become an irrigation and rehabilitation district as provided in this chapter.

Sec. 68. Section 7, chapter 226, Laws of 1961 as amended by section 4, chapter 221, Laws of 1963 and RCW 87.84.060 are each amended to read as follows:

The directors of the irrigation and rehabilitation district shall be the same as of the irrigation district and the directors shall retain all power, rights and authority heretofore granted to them or hereafter granted to them as directors of an irrigation district under any provision of Title 87 RCW or any amendments thereto or any authority granted to directors of irrigation districts under any other law of the state of Washington. The irrigation and rehabilitation district shall also retain all power, rights and authority heretofore or hereafter granted to irrigation districts under Title 87 RCW or any other law or laws of the state of Washington, and use said power and authority including local improvement district provisions to further irrigation and rehabilitation district purposes and in addition shall have authority to rehabilitate or improve all or a portion of any inland body of water including adjacent shore lines located in the district and shall have the further power of modifying or improving any existing or planned water control structure located in the district in order to further the health, recreation, and welfare of the residents in the district.

All rights held by the irrigation district to water located wholly or partially in the district including but not limited to rights granted by the ((~~Washington state supervisor of water resources~~)) department of ecology shall upon formation of the irrigation and rehabilitation district immediately vest in the irrigation and rehabilitation district and in addition all water

in the newly formed district as to which the prior district had any rights shall be held by the new district for all the beneficial uses and purposes for which the irrigation and rehabilitation district is formed.

Sec. 69. Section 5, chapter 221, Laws of 1963 as amended by section 383, chapter 141, Laws of 1979 and RCW 87.84.061 are each amended to read as follows:

The water in any natural or impounded lake, wholly or partially within the boundaries of an irrigation and rehabilitation district, together with all use of said water and the bottom and shore lines to the line established by the highest level where water has been or shall be stored in said lake, shall be regulated, controlled and used by the irrigation and rehabilitation district in order to further the health, safety, recreation and welfare of the residents in the district and the citizens and guests of the state of Washington, subject to rights of the United States bureau of reclamation and any irrigation districts organized under the laws of the state of Washington.

In addition to the powers expressly or impliedly enumerated above, the directors of an irrigation and rehabilitation district shall have the power and authority to:

(1) Control and regulate the use of boats, skiers, skin divers, aircraft, ice skating, ice boats, swimmers or any other use of said lake, by means of appropriate rules and regulations not inconsistent with state fish, game or aeronautics laws.

(2) Expend district funds for the control of mosquitoes or other harmful insects which may affect the use of any lake located in the district: PROVIDED, That the state department of social and health services gives its approval in writing to any district program instituted under the authority of this item. District funds may be expended for mosquito and insect control or other district projects or activities even though it may be necessary to place chemicals or carry on activities on areas located outside of an irrigation and rehabilitation district's boundaries. These funds may be transferred to the jurisdictional health department for the purpose of carrying out the provisions of this item.

(3) Except for state highways, control, regulate or prohibit by means of rules and regulations, the building, construction, placing or allowing to be placed from adjoining land, sand, gravel, dirt, rock, tires, lumber, logs, bottles, cans, garbage and trash, or any loathsome, noxious substances or materials of any kind, and any piling, causeways, fill, roads, culverts, wharfs, bulkheads, buildings, structures, floats, or markers, in, on or above the line established by the highest level where water has been or shall be stored in said lake, located in the district, in order to further the interests of the citizens of the state of Washington, and residents of the district.

(4) Except for state highways, control, regulate and require the placing, maintenance and use of culverts and boat accesses under and through

existing fills constructed over and/or across any lake located within the district to facilitate water circulation, navigation and the reduction of flood danger.

(5) Control the taking of carp or other rough fish located in the district and including the right to grant or sell an exclusive or concurrent franchise for the taking of carp or other rough fish, providing the state fisheries department give their approval in writing to any district project regarding the capture, or sale of fish.

(6) Control and regulate by means of rules and regulations the direct or indirect introduction into any lake within the district of any human, animal or industrial waste products, sewage, effluent or byproducts, treated or untreated: PROVIDED, That the state department of ecology gives its approval in writing to any district program instituted under this section, and nothing herein shall be deemed to amend, repeal, supersede, or otherwise modify any laws or regulations relating to public health or to the ((~~pollution control commission~~)) department of ecology.

(7) Except for state highways, construct, maintain, place, and/or restore roads, buildings, docks, dams, canals, locks, mechanical lifts or any other type of transportation facility; dredge, purchase land, or lease land, or enter into agreements with other agencies or conduct any other activity within or without the district boundaries in order to carry out district projects or activities to further the recreational potential of the area.

Sec. 70. Section 19, chapter 254, Laws of 1927 as amended by section 5, chapter 149, Laws of 1933 and RCW 89.30.055 are each amended to read as follows:

Upon the giving of notice of hearing on the petition by the clerk of the county board aforesaid, there is hereby authorized and created a commission composed of the chairman of the board of county commissioners of each of the counties in which any of the lands to be included in the proposed reclamation district are situated, and of the state director of ((~~conservation and development and/or such members of the Columbia Basin commission or its representatives as may by him be designated~~)) ecology, which commission shall consider and determine said petition.

Sec. 71. Section 20, chapter 254, Laws of 1927 as amended by section 6, chapter 149, Laws of 1933 and RCW 89.30.058 are each amended to read as follows:

The state director of ((~~conservation and development, or a member of the Columbia Basin commission designated by him,~~)) ecology shall be ex officio chairman of said commission, and the clerk of the county board of the county in which the petition is filed, shall be ex officio clerk of said commission. A majority of the members of said commission shall constitute a quorum for the transaction or exercise of any of its powers, functions, duties and business.

Sec. 72. Section 24, chapter 254, Laws of 1927 as amended by section 7, chapter 149, Laws of 1933 and RCW 89.30.070 are each amended to read as follows:

Except as otherwise herein provided the necessary expenses of the commission and of the members thereof in performing the duties and functions of said commission shall be borne by the respective counties concerned in proportion to the taxable value of the acreage of each included in the proposed reclamation district and said respective counties are hereby made liable for such expenses. The individual expenses of the state director of ((~~conservation and development or his representatives~~)) ecology shall be borne by the state.

Sec. 73. Section 13, chapter 284, Laws of 1969 ex. sess. and RCW 90-.14.041 are each amended to read as follows:

All persons using or claiming the right to withdraw or divert and make beneficial use of public surface or ground waters of the state, except as hereinafter provided in this section, shall file with the department of ((~~water resources~~)) ecology not later than June 30, 1974, a statement of claim for each water right asserted on a form provided by the department. This section shall not apply to any water rights which are based on the authority of a permit or certificate issued by the department of ((~~water resources~~)) ecology or one of its predecessors.

Sec. 74. Section 15, chapter 284, Laws of 1969 ex. sess. and RCW 90-.14.061 are each amended to read as follows:

Filing of a statement of a claim shall take place and be completed upon receipt by the department of ((~~water resources~~)) ecology, at its office in Olympia, of an original statement signed by the claimant or his authorized agent, and two copies thereof. Any person required to file hereunder may file through a designated representative. A company, district, public or municipal corporation, or the United States when furnishing to persons water pertaining to water rights required to be filed under RCW 90.14.041, shall have the right to file one claim on behalf of said persons on a form prepared by the department for the total benefits of each person served; provided that a separate claim shall be filed by such company, district, public or private corporation, or the United States for each operating unit of the filing entity providing such water and for each water source. Within thirty days after receipt of a statement of claim the department shall acknowledge the same by a notation on one copy indicating receipt thereof and the date of receipt, together with the wording of the first sentence of RCW 90.14.081, and shall return said copy by certified or registered mail to the claimant at the address set forth in the statement of claim. No statement of claim shall be accepted for filing by the department of ((~~water resources~~)) ecology unless accompanied by a two dollar filing fee.

Sec. 75. Section 18, chapter 284, Laws of 1969 ex. sess. and RCW 90-.14.091 are each amended to read as follows:

For the purpose of RCW 90.14.031 through 90.14.121 the following words and phrases shall have the following meanings:

(1) "Statement of taxes due" means the statement required under RCW 84.56.050.

(2) "Notice in writing" means a notice substantially in the following form:

WATER RIGHTS NOTICE

Every person, including but not limited to an individual, partnership, association, public or private corporation, city or other municipality, county, state agency and the state of Washington, and the United States of America, when claiming water rights established under the laws of the state of Washington, are hereby notified that all water rights or claimed water rights relating to the withdrawal or diversion of public surface or ground waters of the state, except those water rights based upon authority of a permit or certificate issued by the department of ((~~water resources~~)) ecology or one of its predecessors, must be registered with the department of ((~~water resources~~)) ecology, Olympia, Washington not later than June 30, 1974. FAILURE TO REGISTER AS REQUIRED BY LAW WILL RESULT IN A WAIVER AND RELINQUISHMENT OF SAID WATER RIGHT OR CLAIMED WATER RIGHT. For further information contact the Department of ((~~Water Resources~~)) Ecology, Olympia, Washington, for a copy of the act and an explanation thereof.

Sec. 76. Section 19, chapter 284, Laws of 1969 ex. sess. and RCW 90-.14.101 are each amended to read as follows:

To insure that all persons referred to in RCW 90.14.031 and 90.14.041 are notified of the registration provisions of this chapter, the department of ((~~water resources~~)) ecology is directed to give notice of the registration provisions of this chapter as follows:

(1) It shall cause a notice in writing to be placed in a prominent and conspicuous place in all newspapers of the state having a circulation of more than fifty thousand copies for each week day, and in at least one newspaper published in each county of the state, at least once each year for five consecutive years.

(2) It shall cause a notice substantially the same as a notice in writing to be broadcast by each commercial television station operating in the United States and viewed in the state, and by at least one commercial radio station operating from each county of the state having such a station regularly at six month intervals for five consecutive years.

(3) It shall cause a notice in writing to be placed in a prominent and conspicuous location in each county court house in the state.

(4) The county treasurer of each county shall enclose with each mailing of one or more statements of taxes due issued in 1972 a copy of a notice in writing and a declaration that it shall be the duty of the recipient of the statement of taxes due to forward the notice to the beneficial owner of the property. A sufficient number of copies of the notice and declaration shall be supplied to each county treasurer by the director of ((~~the department of water resources~~)) ecology before the fifteenth day of January, 1972. In the implementation of this subsection the department of ((~~water resources~~)) ecology shall provide reimbursement to the county treasurer for the reasonable additional costs, if any there may be, incurred by said treasurer arising from the inclusion of a notice in writing as required herein.

(5) It shall provide copies of the notice in writing to the press services with offices located in Thurston county during January of the years 1970, 1971, 1972, 1973 and 1974.

The director of the department may also in his discretion give notice in any other manner which will carry out the purposes of this section. Where notice in writing is given pursuant to subsections (1) and (3) of this section, RCW 90.14.041, 90.14.051 and 90.14.071 shall be set forth and quoted in full.

Sec. 77. Section 20, chapter 284, Laws of 1969 ex. sess. and RCW 90-.14.111 are each amended to read as follows:

The department of ((~~water resources~~)) ecology is directed to establish a registry entitled the "Water Rights Claims Registry". All claims set forth pursuant to RCW 90.14.041, 90.14.051 and 90.14.061 shall be filed in the registry alphabetically and consecutively by control number, and by such other manner as deemed appropriate by the department.

Sec. 78. Section 2, chapter 105, Laws of 1929 and RCW 90.16.060 are each amended to read as follows:

The license fee herein required shall be paid in advance to the state department of ((~~conservation~~)) ecology and shall be accompanied by written statement, showing the extent of the claim. Said statement shall set forth the name and address of the claimant, the name of the stream from which the water is appropriated or claimed for power development, a description of the forty acres or smallest legal subdivision in which the point of diversion and point of return are located, the date of the right as claimed, the maximum amount of water claimed, expressed in cubic feet per second of time, the total average fall utilized under such claim, the manner of developing power and the use to which the power is applied. If the regular flow is supplemented by water stored in a reservoir, the location of such reservoir, its capacity in acre feet, and the stream from which it is filled and fed, should be given, also the date of the right as claimed for storage purposes.

Should any claimant fail or neglect to file such statement within the time specified, or fail or neglect to pay such fees within the time specified,

the fees due and payable shall be at the schedule rates set out in RCW 90-.16.050, increased twenty-five percent, and the state shall have preference lien therefor, with interest at the rate of ten percent per annum from the date of delinquency, upon the property of claimant used or necessary for use in the development of the right or claim, together with any improvements erected thereon for such development, and upon request from the director of ((~~conservation~~)) ecology the attorney general shall proceed to foreclose the lien, and collect the amount due, as herein provided, in the same manner as other liens for general state and county taxes on real property are foreclosed.

The filing of a claim to water in excess of the amount to which the claimant is legally entitled shall not operate to vest in such claimant any right to the use of such excess water, nor shall the payment of the annual license fees, provided for herein, operate to vest in any claimant any right to the use of such water beyond the amount to which claimant is legally entitled. The filing of such claim, or claims to water shall be conclusive evidence of abandonment by the claimant of all right to water for power purposes not covered by the claim, or claims, as filed; and the failure to file statement and pay the fees, as herein required, for any power site or claim of power rights on account of riparian ownership within two years after ((~~the passage of this act~~)) June 12, 1929, shall be conclusive evidence of abandonment. The amount of the theoretical horsepower upon which fees shall be paid ((~~under the provision of this act;~~)) shall be computed by multiplying the maximum amount of water claimed, expressed in cubic feet per second of time, by the average fall utilized, expressed in feet, and dividing the product by 8.8.

Sec. 79. Section 3, chapter 105, chapter 1929 as last amended by section 39, chapter 106, Laws of 1973 and RCW 90.16.090 are each amended to read as follows:

All fees paid under provisions of this chapter, shall be credited by the state treasurer to the reclamation revolving ((~~fund~~)) account and subject to legislative appropriation, be allocated and expended by the director of ((~~the department of conservation~~)) ecology for investigations and surveys of natural resources in cooperation with the federal government, or independently thereof, including stream gaging, hydrographic, topographic, river, underground water, mineral and geological surveys: PROVIDED, That in any one biennium all said expenditures shall not exceed total receipts from said power license fees collected during said biennium: AND PROVIDED FURTHER, That the portion of money allocated by said director to be expended in cooperation with the federal government shall be contingent upon the federal government making available equal amounts for such investigations and surveys.

*Sec. 80. Section 3, chapter 284, Laws of 1969 ex. sess. as amended by section 103, chapter 109, Laws of 1987 and by section 96, chapter 506, Laws of 1987 and RCW 90.22.010 are each reenacted to read as follows:

The department of ecology may establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife resources, or recreational or aesthetic values of said public waters whenever it appears to be in the public interest to establish the same. In addition, the department of ecology shall, when requested by the department of fisheries or the department of wildlife to protect fish, game or other wildlife resources under the jurisdiction of the requesting state agency, or if the department of ecology finds it necessary to preserve water quality, establish such minimum flows or levels as are required to protect the resource or preserve the water quality described in the request or determination. Any request submitted by the department of fisheries or department of wildlife shall include a statement setting forth the need for establishing a minimum flow or level. When the department acts to preserve water quality, it shall include a similar statement with the proposed rule filed with the code reviser. This section shall not apply to waters artificially stored in reservoirs, provided that in the granting of storage permits by the department of ecology in the future, full recognition shall be given to downstream minimum flows, if any there may be, which have theretofore been established hereunder.

*Sec. 80 was vetoed, see message at end of chapter.

Sec. 81. Section 5, chapter 284, Laws of 1969 ex. sess. and RCW 90-.22.030 are each amended to read as follows:

The establishment of levels and flows pursuant to RCW 90.22.010 shall in no way affect existing water and storage rights and the use thereof, including but not limited to rights relating to the operation of any hydroelectric or water storage reservoir or related facility. No right to divert or store public waters shall be granted by the department of ((~~water resources~~)) ecology which shall conflict with regulations adopted pursuant to RCW 90.22.010 and 90.22.020 establishing flows or levels. All regulations establishing flows or levels shall be filed in a "Minimum Water Level and Flow Register" of the department of ((~~water resources~~)) ecology.

Sec. 82. Section 6, chapter 107, Laws of 1939 and RCW 90.24.050 are each amended to read as follows:

In the event the court shall find that to protect fish and game fish in said lake that fish ladders or other devices should be constructed therein or that other construction shall be necessary in order to maintain the determined lake level, the court shall find the proper device to be constructed, the probable cost thereof and by its order and judgment shall apportion the cost thereof among the persons whose property abuts on said lake in proportion to the lineal feet of waterfront owned by each, which sum so found shall constitute a lien against said real property and shall be paid to the county treasurer and by him placed in a special fund to be known as "Lake

..... Improvement Fund." The ((~~supervisor of water resources~~)) director of ecology shall appoint a suitable person to be compensated by the property owners to regulate the determined level as decreed by the court.

Sec. 83. Section 4, chapter 13, Laws of 1933 ex. sess. and RCW 90-.40.090 are each amended to read as follows:

An application filed by the ((~~Columbia Basin Commission~~)) department of ecology or its assignee, the United States Bureau of Reclamation, for a permit to appropriate waters of the Columbia River under chapter 90.03 RCW, for the development of the Grand Coulee project shall be perfected in the same manner and to the same extent as though such appropriation had been made by a private person, corporation or association, but no fees, as provided for in RCW 90.03.470, shall be required.

NEW SECTION. Sec. 84. (1) The following sections are recodified as sections in chapter 43.21A RCW: RCW 43.21.110, 43.21.130, 43.21.140, 43.21.160, 43.21.190, 43.21.200, 43.21.220, 43.21.230, 43.21.250, 43.21-.260, 43.21.270, 43.21.280, 43.21.290, 43.21.300, 43.21.310, 43.21.320, 43-.21.330, 43.21.340, 43.21.350, 43.21.360, 43.21.370, 43.21.380, 43.21.390, 43.21.400, and 43.21.410.

(2) The following sections are recodified as sections in chapter 43.30 RCW: RCW 43.21.050, 43.21.070, 43.21.080, and 43.21.090.

(3) The code reviser shall correct all statutory references to these sections to reflect this recodification.

NEW SECTION. Sec. 85. The following sections are decodified: RCW 43.21.141, 43.21A.060, 43.21A.400, 43.27A.080, 43.27A.120, and 43.27A.180.

NEW SECTION. Sec. 86. The following acts or parts of acts are each repealed:

(1) Section 43.21.010, chapter 8, Laws of 1965 and RCW 43.21.010;

(2) Section 43.21.040, chapter 8, Laws of 1965 and RCW 43.21.040;

(3) Section 43.21.060, chapter 8, Laws of 1965 and RCW 43.21.060;

(4) Section 43.21.210, chapter 8, Laws of 1965 and RCW 43.21.210;

(5) Section 43.21.240, chapter 8, Laws of 1965 and RCW 43.21.240;

(6) Section 43.49.010, chapter 8, Laws of 1965, section 81, chapter 287, Laws of 1984 and RCW 43.49.010;

(7) Section 43.49.020, chapter 8, Laws of 1965 and RCW 43.49.020;

(8) Section 43.49.030, chapter 8, Laws of 1965 and RCW 43.49.030;

(9) Section 43.49.040, chapter 8, Laws of 1965 and RCW 43.49.040;

(10) Section 43.49.050, chapter 8, Laws of 1965 and RCW 43.49.050;

(11) Section 43.49.060, chapter 8, Laws of 1965 and RCW 43.49.060; and

(12) Section 43.49.070, chapter 8, Laws of 1965, section 56, chapter 75, Laws of 1977 and RCW 43.49.070.

EXPLANATORY NOTE

The state reclamation board was abolished and its powers and duties were transferred to the department of conservation and development by 1921 c 7. The department of conservation and development was renamed the department of conservation by 1957 c 215. The department of conservation, the weather modification board, the Columbia basin commission, and the power advisory committee were abolished by 1967 c 242. Most of their powers and duties were transferred to the newly created department of water resources, but the mining and geology powers and duties of the department of conservation were transferred to the department of natural resources. The department of water resources, the water pollution control commission, and the air pollution control board were abolished by 1970 ex.s. c 62 and their powers and duties were transferred to the newly created department of ecology. In addition, 1970 ex.s. c 70 provided that references to the department of environmental quality meant the department of ecology. See RCW 43.21A.400.

The reclamation revolving fund was redesignated the reclamation revolving account by 1972 ex.s. c 51 § 2, and its moneys transferred to the reclamation revolving account. See RCW 43.79.330 and 89.16.020.

This act corrects references to these abolished agencies and their divisions and officers. In addition, this act eliminates chapter 43.21 RCW, the department of conservation, and chapter 43.49 RCW, the Columbia basin commission, and recodifies all non-obsolete sections of chapter 43.21 RCW into the chapters on the department of ecology or the department of natural resources, as appropriate.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 18, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 18, 1988.

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

"I am returning herewith, without my approval as to section 80, Senate Bill 6370, entitled:

"AN ACT Relating to obsolete references involving state agencies."

Section 80 reenacts RCW 90.22.010, which was amended by both Chapter 109 and Chapter 506, Laws of 1987, without reference to each other. This same statute is amended and re-enacted by Section 6 of Engrossed Second Substitute Senate Bill 6724, which I have signed into law. In order to avoid further confusion, I am vetoing section 80.

With the exception of section 80, Senate Bill 6370 is approved."

CHAPTER 128

[Senate Bill No. 6372]

NATURAL RESOURCE AGENCIES—OBSOLETE REFERENCES CORRECTED

AN ACT Relating to obsolete statutory references involving natural resource agencies; amending RCW 11.08.160, 11.08.220, 11.08.270, 17.04.030, 17.06.030, 28B.30.310, 36.35.080, 37.08.220, 37.08.250, 43.30.150, 70.77.495, 76.01.010, 76.01.040, 76.01.050, 76.06.020, 76.06.030, 76.06.050, 76.06.060, 76.06.070, 76.06.080, 76.06.090, 76.12.020, 76.12.030, 76.12.040, 76.12.045, 76.12.070, 76.12.080, 76.12.090, 76.12.100, 76.12.110, 76.12.120, 76.12.140, 76.12.155, 76.12.160, 76.12.170, 76.14.010, 76.14.030, 76.14.040, 76.14.050, 76.14.060, 76.14.070, 76.14.080, 76.14.090, 76.14.100, 76.14.110, 76.36.130, 76.36.140, 78.52.020, 79.01.048, 79.01.052, 79.01.068, 79.01.072, 79.01.094, 79.01.152, 79.01.500, 79.01.708, 79.01.712, 79.08.104,

79.08.106, 79.08.108, 79.24.030, 79.28.010, 79.28.020, 79.36.290, 79.40.070, 79.60.010, 79.60-.020, 79.60.030, 79.60.040, 79.60.050, 79.60.060, 79.60.080, 79.60.090, 89.12.150, and 90.58-.170; adding a new section to chapter 76.12 RCW; and decodifying RCW 43.30.070, 43.30.080, 43.30.090, 43.30.110, 43.30.120, 43.30.190, 43.30.220, 43.30.230, 43.30.240, 76.12-.085, 79.01.040, and 79.01.900.

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

Sec. 1. Section 11.08.160, chapter 145, Laws of 1965 as amended by section 1, chapter 278, Laws of 1975 1st ex. sess. and RCW 11.08.160 are each amended to read as follows:

The department of revenue of this state shall have supervision of and jurisdiction over escheat property and may institute and prosecute any proceedings deemed necessary or proper in the handling of such property, and it shall be the duty of the department of revenue to protect and conserve escheat property for the benefit of the permanent common school fund of the state until such property or the proceeds thereof have been forwarded to the state treasurer or the ((~~state land commissioner~~)) department of natural resources as hereinafter provided.

Sec. 2. Section 11.08.220, chapter 145, Laws of 1965 as amended by section 6, chapter 278, Laws of 1975 1st ex. sess. and RCW 11.08.220 are each amended to read as follows:

The department of revenue shall be furnished two certified copies of the decree of the court distributing any real property to the state, one of which shall be forwarded to the ((~~state land commissioner who~~)) department of natural resources which shall thereupon assume supervision of and jurisdiction over such real property and thereafter handle it the same as state common school lands. The administrator shall also file a certified copy of the decree with the auditor of any county in which the escheated real property is situated.

Sec. 3. Section 11.08.270, chapter 145, Laws of 1965 and RCW 11-.08.270 are each amended to read as follows:

In the event the order of the court requires the delivery of real property to the claimant, a certified copy of such order shall be served upon the ((~~state land commissioner who~~)) department of natural resources which shall thereupon make proper certification to the office of the governor for issuance of a quitclaim deed for the property to the claimant.

Sec. 4. Section 2, chapter 125, Laws of 1929 and RCW 17.04.030 are each amended to read as follows:

Any one or more freeholders owning more than fifty percent of the acreage desired to be included within the proposed weed district may file a petition with the board of county commissioners praying that their land be included, either separately or with other lands included in the petition, in a weed district to be formed for the purpose of destroying, preventing or exterminating any one or all such weeds, or that such lands be included within a district already formed, or a new district or districts to be formed out of

any district or districts then existing. Such petition shall state the boundaries of the proposed district, the approximate number of acres in the proposed district, the particular weed or weeds to be destroyed, prevented or exterminated, the general method or means to be used in such work, and shall contain a list of all known land owners within the proposed district, together with the addresses of such land owners. Upon the filing of such petition the board of county commissioners shall fix a time for a hearing thereon, and shall give at least thirty days' notice of the time and place of such hearing by posting copies of such notice in three conspicuous places within the proposed district, one copy of which shall be at the main entrance to the court house, and by mailing a copy of such notice to each of the land owners named in the petition at the address therein named, and if any of the land described in the petition be owned by the state, a copy thereof shall be mailed to the ((~~state land commissioner~~)) department of natural resources at Olympia.

Sec. 5. Section 3, chapter 205, Laws of 1959 and RCW 17.06.030 are each amended to read as follows:

Any one or more freeholders owning more than fifty percent of the acreage desired to be included within the proposed intercounty weed district may file a petition with the principal board of county commissioners praying that their land be included, either separately or with other lands included in the petition, in a weed district to be formed for the purpose of destroying, preventing or exterminating any one or all such weeds, or that such lands be included within a district already formed, or a new district or districts to be formed out of any district or districts then existing. Such petition shall state the boundaries of the proposed district, the approximate number of acres in the proposed district, the particular weed or weeds to be destroyed, prevented or exterminated, the general method or means to be used in such work, and shall contain a list of all known landowners within the proposed district, together with the addresses of such landowners. Upon the filing of such petition the principal board of county commissioners shall notify the other boards of commissioners, shall arrange a time for a joint hearing on the petition, and shall give at least thirty days' notice of the time and place of such hearing by posting copies of such notice in three conspicuous places within the proposed district, and at the main entrance to the court house of each county, and by mailing a copy of such notice to each of the landowners named in the petition at the address named therein. If any of the land described in the petition be owned by the state a copy thereof shall be mailed to the ((~~state land commissioner~~)) department of natural resources at Olympia.

Sec. 6. Section 28B.30.310, chapter 223, Laws of 1969 ex. sess. as amended by section 24, chapter 75, Laws of 1977 and RCW 28B.30.310 are each amended to read as follows:

It shall be the duty of the ((~~state land commissioner~~)) department of natural resources to make a report to the board of regents of Washington State University on or as soon as practicable after the close of each fiscal year, which shall contain a complete detailed statement of the current status of trust land sale contracts and income for the university from trust lands managed by the ((~~commissioner~~)) department.

Sec. 7. Section 9, chapter 150, Laws of 1972 ex. sess. and RCW 36-.35.080 are each amended to read as follows:

Nothing in this chapter shall affect any land deeded in trust to the ((~~state forest board~~)) department of natural resources or its successors pursuant to the provisions of Title 76 RCW.

Sec. 8. Section 1, chapter 58, Laws of 1935 and RCW 37.08.220 are each amended to read as follows:

The legislature of the state of Washington hereby consents to the acquisition by the United States by purchase or gift of such lands in the state of Washington as in the opinion of the government of the United States may be needed for the establishment, consolidation and extension of national forests in this state under the provisions of the act of congress approved March 1, 1911, and entitled: "An act to enable any state to cooperate with any other state or states or with the United States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended: PROVIDED, The state of Washington shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil processes in all cases, and such criminal processes as may issue under the authority of the state of Washington against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been granted: PROVIDED FURTHER, That before any acquirement of lands be made under the provisions of this section, such acquisition shall be approved by the ((~~state forest board~~)) department of natural resources: AND FURTHER PROVIDED, That the state of Washington shall retain concurrent jurisdiction to tax persons and corporations and their property and transaction on such lands so acquired.

Sec. 9. Section 1, chapter 216, Laws of 1907 and RCW 37.08.250 are each amended to read as follows:

That a right-of-way of not exceeding five hundred feet in width is hereby granted to the United States of America through any lands or shorelands belonging to the state of Washington, or to the University of Washington, and lying in King county between Lakes Union and Washington, or in or adjoining either of them, the southern boundary of such right-of-way on the upland to be coincident with the southern boundary of the lands now occupied by the University of Washington adjacent to

the present right-of-way of said canal; the width and definite location of such right-of-way before the same is taken possession of by said United States shall be plainly and completely platted and a plat thereof approved by the secretary of war of the United States filed ((~~in the office of the state land commissioner~~)) with the department of natural resources: PROVIDED, That nothing in this section contained shall be construed to repeal or impair any right, interest, privilege or grant expressed or intended in the act of the legislature of the state of Washington approved February 8, 1901, entitled, "An Act relative to and in aid of the construction, maintenance and operation by the United States of America of a ship canal with proper locks and appurtenances to connect the waters of Lakes Union and Washington in King county with Puget Sound and declaring an emergency."

Sec. 10. Section 43.30.150, chapter 8, Laws of 1965 as last amended by section 2, chapter 227, Laws of 1986 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~~)) as provided by law;

(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 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.

Sec. 11. Section 76, chapter 228, Laws of 1961 and RCW 70.77.495 are each amended to read as follows:

Nothing in this chapter shall be construed as permitting any person to set off fireworks of any kind in forest, fallows, grass or brush covered land, either on his own land or the property of another, between April 15th and December 1st of any year, unless it is done under a written permit from the ((~~supervisor of forestry~~)) department of natural resources or ((~~his~~)) its duly authorized agent, and in strict accordance with the terms of the permit and any other applicable law.

Sec. 12. Section 1, chapter 121, Laws of 1955 and RCW 76.01.010 are each amended to read as follows:

The ((~~director of conservation and development with the approval of the state forestry board~~)) department of natural resources is hereby authorized to sell any real property not designated or acquired as state forest lands, but acquired by the state, either in the name of the forest board, the forestry board, or the division of forestry, for administrative sites, lien foreclosures or other purposes whenever ((~~he~~)) it shall determine that said lands are no longer or not necessary for public use.

Sec. 13. Section 1, chapter 78, Laws of 1957 and RCW 76.01.040 are each amended to read as follows:

The ((~~division of forestry of the department of conservation and development upon the approval of the director of the department of conservation and development;~~)) department of natural resources is hereby authorized to receive funds from the federal government for cooperative work in management and protection of forests and forest and range lands as may be authorized by any act of Congress which is now, or may hereafter be, adopted for such purposes.

Sec. 14. Section 2, chapter 78, Laws of 1957 and RCW 76.01.050 are each amended to read as follows:

The ((~~division of forestry~~)) department of natural resources is hereby authorized to disburse such funds, together with any funds which may be appropriated or contributed from any source for such purposes, on management and protection of forests and forest and range lands.

Sec. 15. Section 2, chapter 233, Laws of 1951 and RCW 76.06.020 are each amended to read as follows:

As used in this chapter:

((~~"Supervisor" means the supervisor of forestry;~~

~~"Board" means the state forest board;~~))

"Department" means the department of natural resources;

"Owner" means and includes individuals, partnerships, corporations and associations;

"Agent" means the recognized legal representative, representatives, agent or agents for any owner;

"Timber land" means any land on which there is a sufficient number of trees, standing or down, to constitute, in the judgment of the ((~~board~~)) department, a forest insect or forest disease breeding ground of a nature to constitute a menace, injurious and dangerous to permanent forest growth in the district under consideration.

Sec. 16. Section 3, chapter 233, Laws of 1951 and RCW 76.06.030 are each amended to read as follows:

This chapter shall be administered by the ((~~division of forestry under the guidance and approval of the state forest board~~)) department.

Sec. 17. Section 5, chapter 233, Laws of 1951 as amended by section 1, chapter 72, Laws of 1961 and RCW 76.06.050 are each amended to read as follows:

Whenever the ((~~supervisor~~)) department finds timber lands threatened by infestations of forest insects or forest tree diseases, and if ((~~he~~)) it finds that such infestation is of such character as to threaten destruction of timber stands, the ((~~supervisor~~)) department shall ((~~with the approval of the board~~)) declare and certify an infestation control district and fix and declare the boundaries thereof, so as to definitely describe such district. Said district may include timber lands threatened by the infestation as well as those timber lands already infested.

Thereafter the ((~~supervisor~~)) department shall at once serve written notice to all owners of timber lands or their agents within the said district to proceed under the provisions of this chapter without delay to control, destroy and eradicate the said forest insect pests or forest tree diseases as provided herein. The said notice may be made by personal service, or by mail addressed to the last known place or address of such owner or agent. Said notice shall list and describe the method or methods of action that will

be acceptable to the ((~~board~~)) department if the owner or agent elects to control, destroy and eradicate said insects or diseases on his own property.

Said notice when published for five consecutive days in at least one daily newspaper or in two consecutive issues of a weekly newspaper, either paper having a general circulation in said district will serve as the written notice to owners of noncommercial timber lands.

Sec. 18. Section 6, chapter 233, Laws of 1951 and RCW 76.06.060 are each amended to read as follows:

If the owner or agent so notified shall fail, refuse, neglect or is unable to comply with the requirements of said notice, within a period of thirty days after the date thereof, it shall be the duty of the ((~~supervisor~~)) department or ((~~his~~)) its agents, using such funds as have been, or hereafter may be, made available to proceed with the control, eradication and destruction of such forest pests or forest tree diseases with or without the cooperation of the owner involved in a manner approved by the ((~~forest board~~)) department.

Sec. 19. Section 7, chapter 233, Laws of 1951 and RCW 76.06.070 are each amended to read as follows:

Upon the completion of the work directed, authorized and performed under the provisions of this chapter, the ((~~supervisor~~)) department shall prepare a verified statement of the expenses necessarily incurred in performing the work of controlling, eradicating and destroying said forest insects or forest tree diseases. The balance of such expenses after deducting such amounts as may be contributed to the control costs by the state, by the federal government, or by any other agencies, companies, corporations or individuals, shall be a lien to be prorated per acre upon the property, or properties involved: PROVIDED, That the amount of said lien shall not exceed twenty-five percent of the total costs incurred on such owner's lands including necessary buffer strips. Said lien shall be reported by the ((~~supervisor~~)) department to the county assessor of the county in which said lands are situated, and shall be levied and collected with the next taxes on such lands in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state: PROVIDED FURTHER, Such report and levy shall be made only on commercial timber lands. The assessor shall extend the amounts on the assessment roll in a separate column, and the procedure provided by law for the collection of taxes and delinquent taxes shall be applicable thereto, and, upon the collection thereof, the county treasurer shall repay the same to the ((~~supervisor~~)) department to be applied to the expenses incurred in carrying out the provisions of this chapter.

Sec. 20. Section 11, chapter 233, Laws of 1951 and RCW 76.06.080 are each amended to read as follows:

Every owner, and all owners or representatives, who upon receiving notice as provided in RCW 76.06.050, shall proceed and continue in good faith to control, eradicate and destroy said forest insects and forest tree diseases in accordance with standards established by the ((~~supervisor~~)) department shall be exempt from the provisions hereof as to the lands upon which he or they are so proceeding.

Sec. 21. Section 12, chapter 233, Laws of 1951 and RCW 76.06.090 are each amended to read as follows:

Whenever the ((~~board~~)) department shall determine that insect control work within the designated district of infestation is no longer necessary or feasible, ((~~said board by resolution~~)) the department may dissolve said district.

NEW SECTION. Sec. 22. A new section is added to chapter 76.12 RCW to read as follows:

As used in this chapter, "department" means the department of natural resources.

Sec. 23. Section 3, chapter 154, Laws of 1923 as last amended by section 1, chapter 172, Laws of 1937 and RCW 76.12.020 are each amended to read as follows:

The ((~~board~~)) department shall have the power to accept gifts and bequests of money or other property, made in its own name, or made in the name of the state, to promote generally the interests of reforestation or for a specific named purpose in connection with reforestation, and to acquire in the name of the state, by purchase or gift, any lands which by reason of their location, topography or geological formation, are chiefly valuable for purpose of developing and growing timber, and to designate such lands and any lands of the same character belonging to the state as state forest lands; and may acquire by gift or purchase any lands of the same character. ((~~Said board~~)) The department shall have power to seed, plant and develop forests on any lands, purchased, acquired or designated by it as state forest lands, and shall furnish such care and fire protection for such lands as it shall deem advisable. Upon approval of the board of county commissioners of the county in which said land is located such gift or donation of land may be accepted subject to delinquent general taxes thereon, and upon such acceptance of such gift or donation subject to such taxes, the ((~~state forest board~~)) department shall record the deed of conveyance thereof and file with the assessor and treasurer of the county wherein such land is situated, written notice of acquisition of such land, and that all delinquent general taxes thereon, except state taxes, shall be canceled, and the county treasurer shall thereupon proceed to make such cancellation in the records of his office. Thereafter, such lands shall be held in trust, protected, managed, and administered upon, and the proceeds therefrom disposed of, under RCW 76.12.030.

Sec. 24. Section 3b added to chapter 154, Laws of 1923 by section 3, chapter 288, Laws of 1927 as last amended by section 4, chapter 4, Laws of 1981 2nd ex. sess. and RCW 76.12.030 are each amended to read as follows:

If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 76.12-.020 and can be used as state forest land and if the ((~~board~~)) department deems such land necessary for the purposes of this chapter, the county shall, upon demand by the ((~~board~~)) department, deed such land to the ((~~board~~)) department and the land shall become a part of the state forest lands((~~; and upon such deed being made the commissioner of public lands shall be notified and enter and note it upon the records of his office~~)).

Such land shall be held in trust and administered and protected by the ((~~board~~)) department as other state forest lands. Any moneys derived from the lease of such land or from the sale of forest products, oils, gases, coal, minerals, or fossils therefrom, shall be distributed as follows:

(1) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund((~~: PROVIDED, That for moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204 prior to December 1, 1981, and not distributed under this section prior to December 1, 1981, an amount not to exceed fifty percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund~~)).

(2) Any balance remaining shall be paid to the county in which the land is located to be paid, distributed, and prorated, except as hereinafter provided, to the various funds in the same manner as general taxes are paid and distributed during the year of payment: PROVIDED, That any such balance remaining paid to a county of the seventh, eighth, or ninth class shall first be applied to the reduction of any indebtedness existing in the current expense fund of such county during the year of payment.

Sec. 25. Section 1, chapter 125, Laws of 1937 and RCW 76.12.040 are each amended to read as follows:

Any county, city or town is authorized and empowered to convey to the state of Washington any lands owned by such county, city or town upon the selection of such lands by the ((~~forestry board of the state of Washington~~)) department and the ((~~state forestry board~~)) department is hereby authorized to select and accept conveyances of lands from such counties, cities or towns, suitable for use by the ((~~said forestry board~~)) department as locations for offices, warehouses and machinery storage buildings in the administration of the forestry laws and lands of the state of Washington: PROVIDED, HOWEVER, No consideration shall be paid by the state nor

by the ((~~state forestry board~~)) department for the conveyance of such lands by such county, city or town.

Sec. 26. Section 2, chapter 125, Laws of 1937 and RCW 76.12.045 are each amended to read as follows:

The ((~~state forestry board, through the division of forestry of the department of conservation and development;~~)) department is authorized to use such lands for the purposes hereinbefore expressed and to improve said lands and build thereon any necessary structures for the purposes hereinbefore expressed and expend in so doing such funds as may be authorized by law therefor.

Sec. 27. Section 1, chapter 84, Laws of 1941 and RCW 76.12.070 are each amended to read as follows:

Whenever any county shall have acquired by tax foreclosure, or otherwise, lands within the classification of RCW 76.12.020 and shall have thereafter contracted to sell such lands to bona fide purchasers before the same may have been selected as forest lands by the ((~~state forest board~~)) department, and has heretofore deeded or shall hereafter deed because of inadvertence or oversight such lands to the state or to the ((~~state forest board~~)) department to be held under RCW 76.12.030 or any amendment thereof; the ((~~state forest board~~)) department upon being furnished with a certified copy of such contract of sale on file in such county and a certificate of the county treasurer showing said contract to be in good standing in every particular and that all due payments and taxes have been made thereon, and upon receipt of a certified copy of a resolution of the board of county commissioners of such county requesting the reconveyance to the county of such lands, is hereby authorized to reconvey such lands to such county by quitclaim deed executed by the ((~~chairman and secretary of said board: PROVIDED, Such reconveyance of lands heretofore acquired by the state or state forest board be made within one year from the taking effect of this act and~~)) department. Such reconveyance of lands hereafter so acquired shall be made within one year from the conveyance thereof to the state or ((~~state forest board~~)) department.

Sec. 28. Section 4, chapter 154, Laws of 1923 and RCW 76.12.080 are each amended to read as follows:

((~~Said board~~)) The department shall take such steps as it deems advisable for locating and acquiring lands suitable for state forests and reforestation. No sum in excess of two dollars per acre shall ever be paid or allowed either in cash, bonds or otherwise, for any lands suitable for forest growth, but devoid of such; nor shall any sum in excess of six dollars per acre be paid or allowed either in cash, bonds or otherwise, for any lands adequately restocked with young growth or left in a satisfactory natural condition for natural reforestation and continuous forest production; nor shall any lands ever be acquired by ((~~said board~~)) the department except

upon the approval of the title by the attorney general and on a conveyance being made to the state of Washington by good and sufficient deed. No forest lands shall be designated, purchased, or acquired by ((~~said board~~)) the department unless the area so designated or the area to be acquired shall, in the judgment of the ((~~board~~)) department, be of sufficient acreage and so located that it can be economically administered for forest development purposes. Whenever the ((~~board~~)) department acquires or designates an area as forest lands it shall designate such area by a distinctive name or number, e.g., "State forest No. .....", or, "Cascade State Forest".

Sec. 29. Section 5, chapter 154, Laws of 1923 as amended by section 1, chapter 104, Laws of 1937 and RCW 76.12.090 are each amended to read as follows:

For the purpose of acquiring and paying for lands for state forests and reforestation as herein provided the ((~~board~~)) department may issue utility bonds of the state of Washington, in an amount not to exceed two hundred thousand ((~~[dollars]~~)) dollars in principal, during the biennium expiring March 31, 1925, and such other amounts as may hereafter be authorized by the legislature. Said bonds shall bear interest at not to exceed the rate of two percent per annum which shall be payable annually. Said bonds shall never be sold or exchanged at less than par and accrued interest, if any, and shall mature in not less than a period equal to the time necessary to develop a merchantable forest on the lands exchanged for said bonds or purchased with money derived from the sale thereof. Said bonds shall be known as state forest utility bonds. The principal or interest of said bonds shall not be a general obligation of the state, but shall be payable only from the forest development ((~~fund hereinafter created~~)) account. The ((~~board~~)) department may issue said bonds in exchange for lands selected by it in accordance with ((~~this act~~)) RCW 76.12.020, 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, 76.12.140, and 76.12.150, or may sell said bonds in such manner as it deems advisable, and with the proceeds purchase and acquire such lands. Any of said bonds issued in exchange and payment for any particular tract of lands may be made a first and prior lien against the particular land for which they are exchanged, and upon failure to pay said bonds and interest thereon according to their terms, the lien of said bonds may be foreclosed by appropriate court action.

Sec. 30. Section 1, chapter 117, Laws of 1933 as last amended by section 1, chapter 80, Laws of 1949 and RCW 76.12.100 are each amended to read as follows:

For the purpose of acquiring, seeding((~~[,]~~)), reforestation and administering land for forests and of carrying out ((~~the provisions of chapter 154 of the Laws of 1923~~)) RCW 76.12.020, 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, 76.12.140, and 76.12.150, the ((~~state forest board~~)) department is authorized to issue and dispose of utility bonds of the state of Washington in an amount not to exceed one hundred thousand dollars in

principal during the biennium expiring March 31, 1951: PROVIDED, HOWEVER, That no sum in excess of one dollar per acre shall ever be paid or allowed either in cash, bonds, or otherwise, for any lands suitable for forest growth, but devoid of such, nor shall any sum in excess of three dollars per acre be paid or allowed either in cash, bonds, or otherwise, for any lands adequately restocked with young growth.

Any utility bonds issued under the provisions of this section may be retired from time to time, whenever there is sufficient money in the forest development ((~~fund~~)) account, said bonds to be retired at the discretion of the ((~~state forest board~~)) department either in the order of issuance, or by first retiring bonds with the highest rate of interest.

Sec. 31. Section 6, chapter 154, Laws of 1923 as last amended by section 75, chapter 57, Laws of 1985 and RCW 76.12.110 are each amended to read as follows:

There is created a forest development account in the state treasury. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the account shall be pledged for the purpose of paying interest and principal on the bonds issued by the ((~~board~~)) department, and for the purchase of land for growing timber. Any bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the ((~~board~~)) department.

Appropriations may be made by the legislature from the forest development account to the department ((~~of natural resources~~)) for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.68.040, and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands.

Sec. 32. Section 7, chapter 154, Laws of 1923 as last amended by section 11, chapter 154, Laws of 1980 and RCW 76.12.120 are each amended to read as follows:

All land, acquired or designated by the ((~~board~~)) department as state forest land, shall be forever reserved from sale, but the timber and other products thereon may be sold or the land may be leased in the same manner and for the same purposes as is authorized for state granted land if the ((~~board~~)) department finds such sale or lease to be in the best interests of the state and approves the terms and conditions thereof.

All money derived from the sale of timber or other products, or from lease, or from any other source from the land, except where the Constitution of this state or RCW 76.12.030 requires other disposition, shall be disposed of as follows:

(1) Fifty percent shall be placed in the forest development ((~~fund~~)) account.

(2) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 as now or hereafter amended and the levy rate for any maintenance and operation special school levies. The money distributed to the county shall be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

Sec. 33. Section 3a added to chapter 154, Laws of 1923 by section 3, chapter 288, Laws of 1927 as amended by section 17, chapter 380, Laws of 1987 and RCW 76.12.140 are each amended to read as follows:

Any lands acquired by the state under ((~~the provisions of chapter 154, Laws of 1923~~)) RCW 76.12.020, 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, 76.12.140, and 76.12.150, or any amendments thereto, shall be logged, protected and cared for in such manner as to insure natural reforestation of such lands, and to that end the ((~~state forest board~~)) department shall have power, and it shall be its duty to make rules and regulations, and amendments thereto, governing logging operations on such areas, and to embody in any contract for the sale of timber on such areas, such conditions as it shall deem advisable, with respect to methods of logging, disposition of slashings, and debris, and protection and promotion of new forests. All such rules and regulations, or amendments thereto, shall be adopted by ((~~majority vote of the state forest board by resolution and recorded in the minutes of the board, and shall be promulgated by publication in one issue of a newspaper of general circulation published at the state capitol, and shall take effect and be in force at the time specified therein~~)) the department under chapter 34.04 RCW. Any violation of any such rules shall be a gross misdemeanor unless the ((~~board~~)) department has specified by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 7.84 RCW.

Sec. 34. Section 9, chapter 154, Laws of 1923 and RCW 76.12.155 are each amended to read as follows:

The commissioner of public lands shall keep in his office in a permanent bound volume a record ((~~of all proceedings of the state forest board; and shall also keep a permanent bound record~~)) of all forest lands acquired by the state and any lands owned by the state and designated as such by the ((~~state forest board~~)) department. The record shall show the date and from whom said lands were acquired; amount and method of payment therefor; the forest within which said lands are embraced; the legal description of such lands; the amount of money expended, if any, and the date thereof, for

seeding, planting, maintenance or care for such lands; the amount, date and source of any income derived from such land; and such other information and data as may be required by the ((~~board~~)) department.

Sec. 35. Section 1, chapter 67, Laws of 1947 and RCW 76.12.160 are each amended to read as follows:

The ((~~state supervisor of forestry~~)) department is authorized to sell to or exchange with persons intending to restock forest areas, tree seedling stock and tree seed produced at the state nursery.

Sec. 36. Section 2, chapter 67, Laws of 1947 and RCW 76.12.170 are each amended to read as follows:

All receipts from the sale of stock or seed shall be deposited in a state forest nursery revolving fund to be maintained by the ((~~supervisor of forestry, who~~)) department, which is hereby authorized to use all money in said fund for the maintenance of the state tree nursery or the planting of denuded state owned lands.

Sec. 37. Section 2, chapter 74, Laws of 1953 and RCW 76.14.010 are each amended to read as follows:

As used in this chapter:

((~~The term "supervisor" means the supervisor of forestry;~~

~~The term "board" means the state forest board;~~))

"Department" means the department of natural resources;

The term "owner" means and includes individuals, partnerships, corporations, associations, federal land managing agencies, state of Washington, counties, municipalities, and other forest land owners;

"Forest land" means any lands considered best adapted for the growing of trees.

Sec. 38. Section 3, chapter 74, Laws of 1953 and RCW 76.14.030 are each amended to read as follows:

This chapter shall be administered by the ((~~division of forestry under the guidance and approval of the state forest board~~)) department.

Sec. 39. Section 4, chapter 74, Laws of 1953 as amended by section 1, chapter 171, Laws of 1955 and RCW 76.14.040 are each amended to read as follows:

The ((~~supervisor~~)) department shall use funds placed at ((~~his~~)) its disposal to map, survey, fell snags, build firebreaks and access roads, increase forest protection activities and do all work deemed necessary to protect forest lands from fire in the rehabilitation zone, and to perform reforestation and do other improvement work on state lands in the rehabilitation zone.

Sec. 40. Section 5, chapter 74, Laws of 1953 as last amended by section 1, chapter 101, Laws of 1975 1st ex. sess. and RCW 76.14.050 are each amended to read as follows:

The ((~~supervisor~~)) department is authorized to cooperate with owners of land located in the area described in RCW 76.14.020 in establishing

firebreaks in their most logical position regardless of land ownership. The ((~~board~~)) department may by gift, purchase, condemnation or otherwise acquire easements for road rights of way and land or interests therein located in the high hazard forest area described in RCW 76.14.020 for any purpose deemed necessary for access for forest protection, reforestation, development and utilization, and for access to state owned lands within the area described in RCW 76.14.020 for all other purposes, and the ((~~supervisor~~)) department shall have authority to regulate the use thereof. When the landowner is using the land for agricultural grazing purposes the state shall maintain gates or adequate cattle guards at each place the road enters upon the private landowner's fenced lands.

Sec. 41. Section 3, chapter 171, Laws of 1955 and RCW 76.14.060 are each amended to read as follows:

The ((~~supervisor, subject to the guidance and approval of the board,~~)) department shall have authority to acquire the right by purchase, condemnation or otherwise to cause snags on private land to be felled, slash to be disposed of, and to take such other measures on private land necessary to carry out the objectives of this chapter.

Sec. 42. Section 4, chapter 171, Laws of 1955 and RCW 76.14.070 are each amended to read as follows:

The ((~~supervisor~~)) department shall have authority ((~~subject to the guidance and approval of the board~~)) to expend public money for the purposes and objectives provided in this chapter.

Sec. 43. Section 5, chapter 171, Laws of 1955 and RCW 76.14.080 are each amended to read as follows:

The ((~~supervisor, with the guidance and approval of the board,~~)) department shall develop fire protection projects within the high hazard forest area and shall determine the boundaries thereof in accordance with the lands benefited thereby and shall assess one-sixth of the cost of such projects equally upon all forest lands within the project on an acreage basis. Such assessment shall not, however, exceed twenty-five cents per acre annually nor more than one dollar and fifty cents per acre in the aggregate and shall constitute a lien upon any forest products harvested therefrom. The landowner may by written notice to the ((~~supervisor of forestry~~)) department elect to pay his assessment on a deferred basis at a rate of ten cents per thousand board feet and/or one cent per Christmas tree when these products are harvested from the lands for commercial use until the assessment plus two percent interest from the date of completion of each project has been paid for each acre. Payments under the deferred plan shall be credited by forty acre tracts and shall be first applied to payment of the assessment against the forty acre tract from which the funds were derived and secondly to other forty acre tracts held and designated by the payor. In

the event total ownership is less than forty acres then payment shall be applied on an undivided basis to the entire areas as to which the assessment remains unpaid. The landowner who elects to pay on deferred basis may pay any unpaid assessment and interest at any time.

Sec. 44. Section 6, chapter 171, Laws of 1955 and RCW 76.14.090 are each amended to read as follows:

Notice of each project, the estimated assessment per acre and a description of the boundaries thereof shall be given by publication in a local newspaper of general circulation thirty days in advance of commencing work. Any person owning land within the project may within ten days after publication of notice demand a hearing before the ((~~supervisor~~)) department in Olympia and present any reasons why he feels the assessment should not be made upon his land. Thereafter, the ((~~supervisor~~)) department may change the boundaries of said project to eliminate land from the project which ((~~he~~)) it determines in ((~~his~~)) its discretion will not be benefited by the project.

Sec. 45. Section 7, chapter 171, Laws of 1955 and RCW 76.14.100 are each amended to read as follows:

Except when the owner has notified the ((~~supervisor~~)) department in writing that he will make payment on the deferred plan, the assessment shall be collected by the ((~~supervisor~~)) department reporting the same to the county assessor of the county in which the property is situated upon completion of the work in that project and the assessor shall annually extend the amounts upon the tax rolls covering the property, and the amounts shall be collected in the same manner, by the same procedure, and with the same penalties attached as the next general state and county taxes on the same property are collected. Errors in assessments may be corrected at any time by the ((~~supervisor~~)) department by certifying them to the treasurer of the county in which the land involved is situated. Upon the collection of such assessments the county treasurer shall transmit them to the ((~~supervisor~~)) department. Payment on the deferred plan shall be made directly to the ((~~supervisor~~)) department. Such payment must be made by January 31st for any timber or Christmas trees harvested during the previous calendar year and must be accompanied by a statement of the amount of timber or number of Christmas trees harvested and the legal description of the property from which they were harvested. Whenever an owner paying on the deferred plan desires to pay any unpaid balance or portion thereof, he may make direct payment to the ((~~supervisor~~)) department.

Sec. 46. Section 8, chapter 171, Laws of 1955 and RCW 76.14.110 are each amended to read as follows:

Where the ((~~supervisor~~)) department finds that a portion of the work in any project, except road building, has been done by private expenditures for fire protection purposes only and that the work was not required by

other forestry laws having general application, then the ((~~supervisor~~)) department shall appraise the work on the basis of what it would have cost the state and shall credit the amount of the appraisal toward payment of any sums assessed against lands contained in the project and owned by the person or his predecessors in title making the expenditure. Such appraisal shall be added to the cost of the project for purposes of determining the general assessment.

Sec. 47. Section 13, chapter 154, Laws of 1925 ex. sess. as amended by section 7, chapter 36, Laws of 1957 and RCW 76.36.130 are each amended to read as follows:

A mark or brand cut in boom sticks with an ax or other sharp instrument shall be sufficient for the purposes of this chapter if it substantially conforms to the impression or drawing and written description on file ((~~in the office of the supervisor of forestry~~)) with the department.

Sec. 48. Section 14, chapter 154, Laws of 1925 ex. sess. as amended by section 8, chapter 36, Laws of 1957 and RCW 76.36.140 are each amended to read as follows:

In view of the different conditions existing in the logging industry of this state between the parts of the state lying respectively east and west of the crest of the Cascade mountains, forest products may be put into the water of this state or shipped on common carrier railroads without having thereon a registered mark or brand, as herein required, within that portion of the state lying east of the crest of the Cascade mountains and composed of the following counties to wit: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima; and the penalties herein provided for failure to mark or brand such forest products shall not apply: PROVIDED, That any person operating within such east portion of the state may select a mark or brand and cause it to be registered ((~~in the office of the supervisor of forestry~~)) with the department pursuant to the terms of this chapter, and use it for the purpose of marking or branding forest products and booming equipment, and, in the event of the registration of such mark or brand and the use of it in marking or branding forest products or booming equipment, the provisions hereof shall apply as to the forest products and booming equipment so marked or branded.

Sec. 49. Section 4, chapter 146, Laws of 1951 as last amended by section 31, chapter 253, Laws of 1983 and RCW 78.52.020 are each amended to read as follows:

(1) There is hereby created and established an oil and gas conservation committee, which shall consist of the ((~~land~~)) commissioner of public lands, the director of ecology, four residents of the state of Washington appointed by the governor, and the state treasurer.

(2) Three of the members appointed by the governor shall reside east of the Cascades. The fourth member appointed by the governor shall reside west of the Cascades.

(a) The members appointed by the governor shall serve subject to confirmation by the senate.

(b) The members appointed by the governor shall serve four-year terms except for initial appointments, which shall be made as follows: One member shall serve for one year, one member shall serve for two years, one member shall serve for three years, and one member shall serve for four years. All subsequent appointments shall be for four years. In the event of a vacancy the governor shall make an appointment, consistent with this section, for the duration of the vacated term.

(3) The chairman and the executive secretary of the committee shall be elected by the members of the committee.

(4) The members of the committee may act through designated agents or deputies for the purpose of carrying out the provisions of this chapter.

Sec. 50. Section 12, chapter 255, Laws of 1927 and RCW 79.01.048 are each amended to read as follows:

The board of ((~~state land commissioners~~)) natural resources shall constitute the board of appraisers provided for in section 2 of Article XVI of the state Constitution, to, before the sale of any lands granted to the state for educational purposes, appraise the value of such lands less the improvements thereon.

Sec. 51. Section 13, chapter 255, Laws of 1927 as amended by section 149, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.01.052 are each amended to read as follows:

The board of ((~~state land commissioners~~)) natural resources shall ((~~have its office and~~)) keep its records in the office of the commissioner of public lands, and shall keep a full and complete record of its proceedings relating to the appraisal of lands granted for educational purposes, and the board shall have the power, from time to time, to make and enforce rules and regulations for the carrying out of the provisions of this chapter relating to its duties not inconsistent with law.

Sec. 52. Section 17, chapter 255, Laws of 1927 and RCW 79.01.068 are each amended to read as follows:

The compensation of a state land inspector shall not exceed seven dollars per diem for the time actually employed, and necessary expenses, which shall be submitted to the commissioner of public lands in an itemized and verified account to be approved by him.

Each state land inspector shall, before entering upon his duties, take and subscribe and file in the office of the secretary of state, an oath in substance as follows: "I ..... do solemnly swear that I will well and

truly perform the duties of state land inspector in the inspection and appraisement of lands to be selected by, or belonging to, or held in trust by the state of Washington, to the best of my knowledge and ability; that I will personally and carefully examine each parcel or tract of land assigned to me for inspection, and a full and complete report make, as to each tract inspected, of every material fact connected with the location, condition and character of said land, and my estimate of the value thereof, and the amount and estimated value of all timber, or other valuable material, and all improvements thereon, when directed by the commissioner of public lands; that I am not, nor will I become, interested directly or indirectly in the sale, lease or purchase of said lands; that I will not communicate or disclose to any person other than the commissioner of public lands, or his deputy, or the members of the board of ((~~state land commissioners~~)) natural resources, any information in relation to the location, condition, character or value of any lands inspected by me, or the timber or other valuable material, or the improvements thereon; that in the performance of my duties as state land inspector I will in all respects act according to the best of my knowledge and ability, and will protect the interests of the state of Washington."

Sec. 53. Section 18, chapter 255, Laws of 1927 and RCW 79.01.072 are each amended to read as follows:

If any state land inspector shall knowingly or wilfully make any false statement in any report of inspection of lands, or any false estimate of the value of lands inspected or the timber or other valuable materials or improvements thereon, or shall knowingly or wilfully divulge anything or give any information in regard to lands inspected by him, other than to the commissioner of public lands, the deputy commissioner of public lands, or the board of ((~~state land commissioners~~)) natural resources, he shall forthwith be removed from office, and shall be deemed guilty of a felony and in such case it shall be the duty of the commissioner of public lands and of the members of the board of ((~~state land commissioners~~)) natural resources, to report all facts within their knowledge to the proper prosecuting officer to the end that prosecution for the offense may be had.

Sec. 54. Section 3, chapter 217, Laws of 1941 and RCW 79.01.094 are each amended to read as follows:

The ((~~board of state land commissioners~~)) department of natural resources shall exercise general supervision and control over the sale or lease for any purpose of land granted to the state for educational purposes and also over the sale of timber, fallen timber, stone, gravel and all other valuable materials situated thereon. It shall be the duty of the ((~~commissioner of public lands, on its request, to furnish the board with~~)) department to prepare all reports, data and information in ((~~the~~)) its records ((~~of his office~~)) pertaining to any such proposed sale or lease((~~, and the board of state~~

~~land commissioners~~)). The department shall have power, if it deems it advisable, to order that any particular sale or lease of such land or valuable materials be held in abeyance pending further inspection and report. The ((~~board~~)) department may cause such further inspection and report of land or materials involved in any proposed sale or lease to be made and for that purpose shall have power to employ its own inspectors, cruisers and other technical assistants. Upon the basis of such further inspection and report the ((~~board~~)) department shall determine whether or not, and the terms upon which, the proposed sale or lease shall be consummated.

Sec. 55. Section 38, chapter 255, Laws of 1927 and RCW 79.01.152 are each amended to read as follows:

For the purpose of determining the value and character of lands, timber, fallen timber, stone, gravel, or other valuable material, or improvements, the board of ((~~state land commissioners~~)) natural resources, or the commissioner of public lands, as the case may be, may compel the attendance of witnesses by subpoena, at such place as the board, or the commissioner, may designate, and examine such witnesses under oath as to the value and character of such lands, or materials, or improvements and waste or damage to the land.

Sec. 56. Section 125, chapter 255, Laws of 1927 as amended by section 139, chapter 81, Laws of 1971 and RCW 79.01.500 are each amended to read as follows:

Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling himself aggrieved by any order or decision of the board of ((~~state land commissioners~~)) natural resources, or the commissioner of public lands, concerning the same, may appeal therefrom to the superior court of the county in which such lands or materials are situated, by serving upon all parties who have appeared in the proceedings in which the order or decision was made, or their attorneys, a written notice of appeal, and filing such notice, with proof, or admission, of service, with the board, or the commissioner, within thirty days from the date of the order or decision appealed from, and at the time of filing the notice, or within five days thereafter, filing a bond to the state, in the penal sum of two hundred dollars, with sufficient sureties, to be approved by the secretary of the board, or the commissioner, conditioned that the appellant shall pay all costs that may be awarded against him on appeal, or the dismissal thereof. Within thirty days after the filing of notice of appeal, the secretary of the board, or the commissioner, shall certify, under official seal, a transcript of all entries in the records of the board, or the commissioner, together with all processes, pleadings and other papers relating to and on file in the case, except evidence used in such proceedings, and file such transcript and papers, at the expense of the applicant, with the clerk of the court to which the appeal is taken. The hearing and trial of said appeal in

the superior court shall be de novo before the court, without a jury, upon the pleadings and papers so certified, but the court may order the pleadings to be amended, or new and further pleadings to be filed. Costs on appeal shall be awarded to the prevailing party as in actions commenced in the superior court, but no costs shall be awarded against the state, the board, or the commissioner. Should judgment be rendered against the appellant, the costs shall be taxed against him and his sureties on the appeal bond, except when the state is the only adverse party, and shall be included in the judgment, upon which execution may issue as in other cases. Any party feeling himself aggrieved by the judgment of the superior court may appeal therefrom to the supreme court or the court of appeals of the state, in the manner, and within the time, for appealing from judgments in actions at law. Unless appeal be taken from the judgment of the superior court, the clerk of said court shall, on demand, certify, under his hand and the seal of the court, a true copy of the judgment, to the board, or the commissioner, which judgment shall thereupon have the same force and effect as if rendered by the board, or the commissioner. In all cases of appeals from orders or decisions of the commissioner of public lands involving the prior right to purchase tidelands of the first class, if the appeal be not prosecuted, heard and determined, within two years from the date of the appeal, the attorney general shall, after thirty days' notice to the appellant of his intention so to do, move the court for a dismissal of the appeal, but nothing herein shall be construed to prevent the dismissal of such appeal at any time in the manner provided by law.

Sec. 57. Section 187, chapter 255, Laws of 1927 and RCW 79.01.708 are each amended to read as follows:

All maps, plats and field notes of surveys, required to be made by this chapter shall, after approval by the ((~~board of state land commissioners~~)) department of natural resources, or the commissioner of public lands, as the case may be, be deposited and filed in the office of the commissioner of public lands, who shall keep a careful and complete record and index of all maps, plats and field notes of surveys in his possession, in well bound books, which shall at all times be open to public inspection.

Sec. 58. Section 188, chapter 255, Laws of 1927 and RCW 79.01.712 are each amended to read as follows:

All notices, orders, contracts, certificates, rules and regulations, or other documents or papers made and issued by or on behalf of the ((~~board of state land commissioners~~)) department of natural resources, or the commissioner of public lands, as provided in this chapter, shall be authenticated by a seal whereon shall be the vignette of George Washington, with the words "Seal of the commissioner of public lands, State of Washington."

Sec. 59. Section 2, chapter 26, Laws of 1951 and RCW 79.08.104 are each amended to read as follows:

The ((~~land commissioner~~)) department of natural resources and the state parks and recreation commission shall fix a yearly reasonable rental for the use of public lands reserved for state park purposes, which shall be paid by the commission to the ((~~land commissioner~~)) department for the particular fund for which the lands had been held in trust, and which rent shall be transmitted to the state treasurer for deposit in such fund.

Sec. 60. Section 3, chapter 26, Laws of 1951 and RCW 79.08.106 are each amended to read as follows:

No merchantable timber shall be cut or removed from lands reserved for state park purposes without the consent of the ((~~land commissioner~~)) department of natural resources and without payment to the particular fund for which the lands are held in trust, the reasonable value thereof as fixed by the ((~~commissioner~~)) department.

Sec. 61. Section 1, chapter 96, Laws of 1953 and RCW 79.08.108 are each amended to read as follows:

For the purpose of securing and preserving certain lands for state park purposes, the ((~~commissioner of public lands~~)) board of natural resources shall((~~, with the advice and approval of the board of state land commissioners,~~)) exchange any state lands of equal value for any lands, located in the following described tracts, which may be selected and requested by the state parks and recreation commission for state park purposes: Government lots 1, 2, 3, and 4 of section 20, all of section 21, government lot 1 of section 22, government lot 1 of section 29, the north half of the north half of section 28, and government lot 1 of section 27, all in township 13 north, range 11 west, W.M. in Pacific county; the northeast quarter of the southwest quarter and the south half of the southwest quarter of section 24, township 2 north, range 6 east, W.M., in Skamania county; and the southeast quarter of section 15, the south half of the northwest quarter and the southwest quarter of section 14, the southwest quarter of section 11, the west half of section 23, the southeast quarter, the west half and the northeast quarter of the northeast quarter of section 22, the northwest quarter of section 26, and the northeast quarter of section 27, all in township 28 north, range 45 east, W.M. in Spokane county; the southwest quarter and the west half of the southeast quarter of section 16, the east half of the east half of section 20, the northeast quarter of the northeast quarter of section 29, the northwest quarter, the west half of the southwest quarter and government lots 1, 2, 3, 4 and 5 of section 21, including tidelands and government lots 1 and 2 of section 28, including tidelands, all in township 25 north, range 2 west, W.M. in Jefferson county. The ((~~commissioner~~)) department shall, with the advice and approval of the attorney general, execute such agreements, writings, or relinquishments and certify to the governor such deeds as are necessary or proper to effect such exchanges. When such exchanges have been

effected, the lands so acquired in exchange shall be reserved by the ((~~commissioner of public lands~~)) department for state park purposes in accordance with RCW 79.08.102, 79.08.104 and 79.08.106.

Sec. 62. Section 7, chapter 69, Laws of 1909 as last amended by section 76, chapter 57, Laws of 1985 and RCW 79.24.030 are each amended to read as follows:

The board of natural resources and the ((~~state capitol committee~~)) department of natural resources may employ such cruisers, draughtsmen, engineers, architects or other assistants as may be necessary for the best interests of the state in carrying out the provisions of ((~~this act~~)) RCW 79-.24.010 through 79.24.085, and all expenses incurred by the board and ((~~committee~~)) department, and all claims against the capitol building construction account shall be audited by the ((~~state capitol committee~~)) department and presented in vouchers to the state treasurer, who shall draw a warrant therefor against the capitol building construction account as herein provided or out of any appropriation made for such purpose.

Sec. 63. Section 1, chapter 102, Laws of 1913 and RCW 79.28.010 are each amended to read as follows:

For the purpose of obtaining from the United States indemnity or lieu lands for such lands granted to the state for common schools, educational, penal, reformatory, charitable, capitol building or other purposes, as have been or may be lost to the state, or the title to or use or possession of which is claimed by the United States or by others claiming by, through or under the United States, by reason of any of the causes entitling the state to select other lands in lieu thereof, the inclusion of the same in any reservation by or under authority of the United States, or any other appropriation or disposition of the same by the United States, whether such lands are now surveyed or unsurveyed, the ((~~commissioner of public lands~~)) department of natural resources, with the advice and approval of the ((~~board of state land commissioners and the~~)) attorney general, is authorized and empowered to enter into an agreement or agreements, on behalf of the state, with the proper officer or officers of the United States for the relinquishment of any such lands and the selection in lieu thereof, under the provisions of RCW 79.28-.010 through 79.28.030, of lands of the United States of equal area and value.

Sec. 64. Section 2, chapter 102, Laws of 1913 and RCW 79.28.020 are each amended to read as follows:

Upon the making of any such agreement, the board of ((~~state land commissioners~~)) natural resources shall be empowered and it shall be ((~~their~~)) its duty to cause such examination and appraisal to be made as will determine the area and value, as nearly as may be, of the lands lost to the state, or the title to, use or possession of which is claimed by the United States by reason of the causes mentioned in RCW 79.28.010, and proposed

to be relinquished to the United States, and shall cause an examination and appraisal to be made of any lands which may be designated by the officers of the United States as subject to selection by the state in lieu of the lands aforesaid, to the end that the state shall obtain lands in lieu thereof of equal area and value.

Sec. 65. Section 6, chapter 312, Laws of 1927 and RCW 79.36.290 are each amended to read as follows:

Any person, firm or corporation shall have a right of way over public lands, subject to the provisions of RCW 79.36.230 through 79.36.290, when necessary, for the purpose of hauling or removing timber, stone, mineral, or other natural products or the manufactured products thereof of the land. Before, however, any such right of way grant shall become effective, a written application for and a plat showing the location of such right of way, with reference to the adjoining lands, shall be filed with the ((~~state land commissioner~~)) department of natural resources, and all timber on said right of way, together with the damages to said land, shall be appraised and paid for in cash by the person, firm or corporation applying for such right of way. The ((~~state land commissioner~~)) department of natural resources shall then cause to be issued in duplicate to such person, firm or corporation a right of way certificate setting forth the conditions and terms upon which such right of way is granted. Whenever said right of way shall cease to be used, for a period of two years, for the purpose for which it was granted, it shall be deemed forfeited, and said right of way certificate shall contain such a provision: PROVIDED, That any right of way for logging purposes heretofore issued which has never been used, or has ceased to be used, for a period of two years, for the purpose of which it was granted, shall be deemed forfeited and shall be canceled upon the records ((~~in the office of the commissioner of public lands~~)) of the department. One copy of each certificate shall be filed ((~~in the office of the commissioner of public lands~~)) with the department and one copy delivered to the applicant. The forfeiture of said right of way, as herein provided, shall be rendered effective by the mailing of notice of such forfeiture to the grantee thereof to his last known post office address and by stamping the copy of said certificate in the ((~~office of the commissioner of public lands~~)) department canceled and the date of such cancellation. For the issuance of such certificate the same fee shall be charged as provided in the case of certificates for railroad rights of way.

Sec. 66. Section 1, chapter 87, Laws of 1937 as amended by section 1, chapter 225, Laws of 1955 and RCW 79.40.070 are each amended to read as follows:

It shall be unlawful for any person to enter upon any of the state lands, including all land under the jurisdiction of the ((~~state forest board~~)) department of natural resources, or upon any private land without the permission of the owner thereof and to cut, break or remove therefrom for commercial purposes any evergreen trees, commonly known as Christmas

trees, including fir, hemlock, spruce, and pine trees. Any person cutting, breaking or removing or causing to be cut, broken or removed, or who cuts down, cuts off, breaks, tops, or destroys any of such Christmas trees shall be liable to the state, or to the private owner thereof, for payment for such trees at a price of one dollar each if payment is made immediately upon demand. Should it be necessary to institute civil action to recover the value of such trees, the state in the case of state lands, or the owner in case of private lands, may exact treble damages on the basis of three dollars per tree for each tree so cut or removed.

Sec. 67. Section 1, chapter 130, Laws of 1939 as amended by section 1, chapter 123, Laws of 1941 and RCW 79.60.010 are each amended to read as follows:

The ((~~state forest board~~)) department of natural resources with regard to state forest board lands((~~, and the commissioner of public lands with regard to~~)) and state granted lands((~~, are~~)) is hereby authorized to enter into cooperative agreements with the United States of America, Indian tribes, and private owners of timber land providing for coordinated forest management, including time, rate and method of cutting timber and method of silvicultural practice on a sustained yield unit. ((~~Wherever applicable in this chapter, it shall be understood that the state forest board shall have complete authority over state forest board lands and the commissioner of public lands complete authority over state granted land.~~))

Sec. 68. Section 2, chapter 130, Laws of 1939 and RCW 79.60.020 are each amended to read as follows:

The ((~~state forest board and the commissioner of public lands are~~)) department of natural resources is hereby authorized and directed to determine, define and declare informally the establishment of a sustained yield unit, comprising the land area to be covered by any such cooperative agreement and include therein such other lands as may be later acquired by the ((~~state forest board~~)) department and included under the cooperative agreement.

Sec. 69. Section 3, chapter 130, Laws of 1939 and RCW 79.60.030 are each amended to read as follows:

The state shall agree that the cutting from combined national forest and state lands will be limited to the sustained yield capacity of these lands in the management unit as determined by the contracting parties and approved by the ((~~state forest board and the~~)) commissioner of public lands for state granted lands and the board of natural resources for state forest board lands. Cooperation with the private contracting party or parties shall be contingent on limitation of production to a specified amount as determined by the contracting parties and approved by the ((~~state forest board and the~~)) commissioner of public lands for state granted lands and the

board of natural resources for state forest board lands and shall comply with the other conditions and requirements of such cooperative agreement.

Sec. 70. Section 2, chapter 123, Laws of 1941 and RCW 79.60.040 are each amended to read as follows:

The private contracting party or parties shall enjoy the right of easement over state forest board lands and state granted lands included under said cooperative agreement for railway, road and other uses necessary to the carrying out of the agreement. This easement shall be only for the life of the cooperative agreement and shall be granted without charge with the provision that payment shall be made for all merchantable timber cut, removed or damaged in the use of such easement, payment to be based on the contract stumpage price for timber of like value and species and to be made within thirty days from date of cutting, removal and/or damage of such timber and appraisal thereof by the ((~~commissioner of public lands and the state forest board~~)) department of natural resources.

Sec. 71. Section 4, chapter 130, Laws of 1939 and RCW 79.60.050 are each amended to read as follows:

During the period when any such cooperative agreement is in effect, the timber on the state lands which the ((~~state forest board and the commissioner of public lands~~)) department of natural resources determines shall be included in the sustained yield unit may, from time to time, be sold at not less than its appraised value as approved by the ((~~state forest board and the~~)) commissioner of public lands for state granted lands and the board of natural resources for state forest board lands, due consideration being given to existing forest conditions on all lands included in the cooperative management unit and such sales may be made in the discretion of the ((~~state forest board and the commissioner of public lands~~)) department and the contracting party or parties in the cooperative sustained yield agreement. These sale agreements shall contain such provisions as are necessary to effectually permit the ((~~state forest board and the commissioner of public lands~~)) department to carry out the purpose of this section and in other ways afford adequate protection to the public interests involved.

Sec. 72. Section 5, chapter 130, Laws of 1939 and RCW 79.60.060 are each amended to read as follows:

The sale of timber upon state forest board land and state granted land within such sustained yield unit or units shall be made for not less than the appraised value thereof as heretofore provided for the sale of timber on state lands: PROVIDED, That, if in the judgment of the ((~~state forest board or the commissioner of public lands~~)) department, it is to the best interests of the state to do so, said timber or any such sustained yield unit or units may be sold on a stumpage or scale basis for a price per thousand not less than the appraised value thereof. The ((~~state forest board and the commissioner of public lands~~)) department shall reserve the right to reject any

and all bids if the intent of this chapter will not be carried out. Permanency of local communities and industries, prospects of fulfillment of contract requirements, and financial position of the bidder shall all be factors included in this decision.

Sec. 73. Section 3, chapter 123, Laws of 1941 and RCW 79.60.080 are each amended to read as follows:

No transfer or assignment by the purchaser shall be valid unless the transferee or assignee is acceptable to the ((~~commissioner of public lands and the state forest board~~)) department of natural resources and the transfer or assignment approved by ((~~them~~)) it in writing.

Sec. 74. Section 7, chapter 130, Laws of 1939 as amended by section 4, chapter 123, Laws of 1941 and RCW 79.60.090 are each amended to read as follows:

The purchaser shall, at the time of executing the contract, deliver a performance bond or sureties acceptable in regard to terms and amount to the ((~~commissioner of public lands and the state forest board~~)) department of natural resources, but such performance bond or sureties shall not exceed ten percent of the estimated value of the timber purchased computed at the stumpage price and at no time shall exceed a total of fifty thousand dollars. The purchaser shall also be required to make a cash deposit equal to twenty percent of the estimated value of the timber purchased, computed at the stumpage bid. Upon failure of the purchaser to comply with the terms of the contract, the performance bond or sureties may be forfeited to the state upon order of the ((~~forest board or the commissioner of public lands~~)) department of natural resources.

At no time shall the amount due the state for timber actually cut and removed exceed the amount of the deposit as hereinabove set forth. The amount of the deposit shall be returned to the purchaser upon completion and full compliance with the contract by the purchaser, or it may, at the discretion of the purchaser, be applied on final payment on the contract.

Sec. 75. Section 2, chapter 246, Laws of 1927 and RCW 89.12.150 are each amended to read as follows:

From and after the date that the consent of the United States shall be given thereto by act of congress, the ((~~said commissioner of public lands~~)) department of natural resources is authorized, upon request from the secretary of the interior, to cause an appraisal to be made by the board of ((~~state land commissioners~~)) natural resources of state lands in any division of any federal reclamation project which the secretary of the interior shall advise the ((~~commissioner of public lands~~)) department that he desires to have subdivided into farm units of class referred to in RCW 89.12.140, and also to cause to be appraised by the board of ((~~state land commissioners~~)) natural resources such public lands of the United States on the same project, or elsewhere in the state of Washington, as the secretary of the interior may

propose to exchange for such state land, and when the secretary of the interior shall have secured from congress authority to make such exchange the ((~~commissioner of public lands~~)) department is authorized to exchange such state lands in any federal reclamation project for public lands of the United States on the same project or elsewhere in the state of Washington of approximately equal appraised valuation, and in making such exchange is authorized to execute suitable instruments in writing conveying or relinquishing to the United States such state lands and accepting in lieu thereof such public land of approximately equal appraised valuation.

Sec. 76. Section 17, chapter 286, Laws of 1971 ex. sess. as amended by section 6, chapter 47, Laws of 1979 ex. sess. and RCW 90.58.170 are each amended to read as follows:

A shorelines hearings board sitting as a quasi judicial body is hereby established within the environmental hearings office under RCW 43.21B-.005. The shorelines hearings board shall be made up of six members: Three members shall be members of the pollution control hearings board; two members, one appointed by the association of Washington cities and one appointed by the association of county commissioners, both to serve at the pleasure of the associations; and the ((~~state land~~)) commissioner of public lands or his designee. The chairman of the pollution control hearings board shall be the chairman of the shorelines hearings board. A decision must be agreed to by at least four members of the board to be final. The members of the shorelines appeals board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 77. RCW 43.30.070, 43.30.080, 43.30.090, 43-.30.110, 43.30.120, 43.30.190, 43.30.220, 43.30.230, 43.30.240, 76.12.085, 79.01.040, and 79.01.900 are each decodified.

EXPLANATORY NOTE

The division of forestry of the department of conservation and development, the board of state land commissioners, the state forest board, and all state sustained yield forest committees were abolished and their powers and duties were transferred to the newly created department of natural resources by 1957 c 38. The forestry powers and duties of the director of conservation and development in Title 76 RCW were also transferred to the department by 1957 c 38. In addition, the powers of the capitol committee under RCW 79.24.010 through 79.24.087 were transferred to the department by 1957 c 38. Of the duties transferred to the department from the board of state land commissioners, the state forest board, and the capitol committee, the board of natural resources was to perform the appraisal, appeal, approval, and hearing functions. See RCW 43.30.130. This act corrects references to these obsolete agencies to refer to the department or board of natural resources or the commissioner of public lands, as appropriate.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 129

[Engrossed Substitute House Bill No. 1416]
PRIVATE WAYS OF NECESSITY

AN ACT Relating to private ways of necessity; amending RCW 8.24.030; and adding new sections to chapter 8.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 8.24 RCW to read as follows:

In any proceeding for the condemnation of land for a private way of necessity, the owner of any land surrounding and contiguous to the property which land might contain a site for the private way of necessity may be joined as a party.

NEW SECTION. Sec. 2. A new section is added to chapter 8.24 RCW to read as follows:

If it is determined that an owner, or one entitled to the beneficial use of land, is entitled to a private way of necessity and it is determined that there is more than one possible route for the private way of necessity, the selection of the route shall be guided by the following priorities in the following order:

(1) Nonagricultural and nonsilvicultural land shall be used if possible.

(2) The least-productive land shall be used if it is necessary to cross agricultural land.

(3) The relative benefits and burdens of the various possible routes shall be weighed to establish an equitable balance between the benefits to the land for which the private way of necessity is sought and the burdens to the land over which the private way of necessity is to run.

Sec. 3. Section 2, chapter 133, Laws of 1913 and RCW 8.24.030 are each amended to read as follows:

The procedure for the condemnation of land for a private way of necessity or for drains, flumes or ditches under the provisions of this chapter shall be the same as that provided for the condemnation of private property by railroad companies, but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation by railroad companies.

In any action brought under the provisions of this chapter for the condemnation of land for a private way of necessity, reasonable attorneys' fees

and expert witness costs may be allowed by the court to reimburse the condemnee.

Passed the House March 5, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 130

[Senate Bill No. 6297]

MEDICAL AID, ACCIDENT, AND RESERVE FUNDS—INVESTMENT POLICIES AND PROCEDURES

AN ACT Relating to investment of funds of the department of labor and industries; amending RCW 43.33A.110; creating a new section; and making appropriations.

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

Sec. 1. Section 11, chapter 3, Laws of 1981 as amended by section 4, chapter 219, Laws of 1981 and RCW 43.33A.110 are each amended to read as follows:

The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, until July 1, 1989, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.18 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.04 RCW.

NEW SECTION. Sec. 2. At the start of the 1989 regular legislative session, the state investment board shall present to the financial institutions and insurance committee of the senate and the commerce and labor committee of the house of representatives, or the appropriate successor committees, a report recommending, where necessary, changes in current investment policies. The report shall study current investment needs of the department of labor and industries and casualty insurance industry investment policies; analyze statutory and regulatory constraints and the need to encourage stability in Washington's industrial insurance rates; and recommend investment policies for determination of asset allocation. The report shall include recommendations for appropriate accounting policies that will allow stabilization of rates and maximization of investment return and a plan making recommendations for investment of state industrial insurance funds in both equity and fixed investments.

NEW SECTION. Sec. 3. There is appropriated from the medical aid fund and the accident fund in equal parts one hundred thousand dollars, or so much thereof as may be necessary, to the state investment board for the biennium ending June 30, 1989, for the purposes of this act.

Passed the Senate March 10, 1988.
Passed the House March 9, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 131

[Substitute House Bill No. 1373]

TAX EXEMPTIONS FOR REAL OR PERSONAL PROPERTY—NEWLY ACQUIRED REAL PROPERTY

AN ACT Relating to property tax exemptions; and amending RCW 84.36.815.

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

Sec. 1. Section 9, chapter 40, Laws of 1973 2nd ex. sess. as last amended by section 10, chapter 220, Laws of 1984 and RCW 84.36.815 are each amended to read as follows:

In order to qualify for exempt status for real or personal property pursuant to the provisions of chapter 84.36 RCW, as now or hereafter amended, all foreign national governments, churches, cemeteries, nongovernmental nonprofit corporations, organizations, and associations, private schools or colleges, and soil and water conservation districts shall file an initial application on or before March 31 with the state department of revenue. All applications shall be filed on forms prescribed by the department and shall be signed by an authorized agent of the applicant.

In order to requalify for exempt status, such applicants except nonprofit cemeteries shall file a renewal application on or before March 31 of the fourth year following the date of such initial application and on or before March 31 of every fourth year thereafter. An applicant previously granted exemption shall annually file, on forms prescribed by the department, an affidavit certifying the exempt status of the real or personal property owned by the exempt organization. When an organization acquires real property qualified for exemption or converts real property to exempt status, such organization shall file an initial application for the property within sixty days following the acquisition or conversion. If the application is filed after the expiration of the sixty-day period a late filing penalty shall be imposed pursuant to RCW 84.36.825, as now or hereafter amended.

When organizations acquire real property qualified for exemption or convert real property to an exempt use, the property, upon approval of the application for exemption, is entitled to a ((~~cancellation of the pro rata portion of taxes payable for the remaining portion of the year from the date~~

~~of acquisition or conversion plus exemption for~~)) property tax exemption for property taxes due and payable the following year. If the owner has paid taxes ((~~allocable to that portion of the year subsequent to the date of acquisition or conversion~~)) for the year following the year the property qualified for exemption, the owner is entitled to a ((~~pro rata~~)) refund of the amount paid on the property so acquired or converted.

Passed the House February 9, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 132

[Senate Bill No. 5667]

UNCLAIMED PERSONAL PROPERTY HELD BY CITY POLICE AUTHORITIES—DISPOSITION PROCEDURE

AN ACT Relating to unclaimed personal property; and amending RCW 63.32.010, 63.32.020, 63.40.010, and 63.40.020.

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

Sec. 1. Section 1, chapter 100, Laws of 1925 ex. sess. as last amended by section 2, chapter 154, Laws of 1981 and RCW 63.32.010 are each amended to read as follows:

Whenever any personal property shall come into the possession of the police authorities of any city in connection with the official performance of their duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, which notice shall inform the owner of the disposition which may be made of the property under this section and the time that the owner has to claim the property and in all other cases for a period of sixty days from the time said property came into the possession of the police department, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said city may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the police department subject to giving notice in the manner prescribed in RCW 63.32.020 and the right of the owner, or the owner's legal representative, to reclaim the property within one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the chief of police, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the police department shall provide the city's mayor or

council and retain for public inspection a list of such retained items and an estimation of each item's replacement value;

(3) Destroy an item of personal property at the discretion of the chief of police if the chief of police determines that the following circumstances have occurred:

(a) ((~~The item has been in the possession of the police department for a period of at least one year from the time of first possession by the department~~)) The property has no substantial commercial value, or the probable cost of sale exceeds the value of the property;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in ((~~RCW 63.32.020~~)) this section; and

(c) The chief of police has determined that the item is unsafe and unable to be made safe for use by any member of the general public; ((~~or~~))

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.32.020, may be offered by the chief of police to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section; or

(5) If the item is not unsafe or illegal to possess or sell, but has been, or may be used, in the judgment of the chief of police, in a manner that is illegal, such item may be destroyed.

Sec. 2. Section 2, chapter 100, Laws of 1925 ex. sess. and RCW 63-.32.020 are each amended to read as follows:

Before said personal property shall be sold, ((~~if the name and address of the owner thereof be known, at least ten days' notice of such sale shall be given him either personally or by leaving a written notice at his residence or place of doing business with some person of suitable age and discretion then resident or employed therein; or if the name or residence of the owner be not known,~~)) a notice of such sale fixing the time and place thereof which shall be at a suitable place, which will be noted in the advertisement for sale, and containing a description of the property to be sold shall be published at least once in the official newspaper of said city at least ten days prior to the date fixed for said sale. The notice shall be signed by the chief or other head of the police department of such city. If the owner fails to reclaim said property prior to the time fixed for the sale in such notice, the chief or other head of the police department shall conduct said sale and sell the property described in the notice at public auction to the highest and best bidder for cash, and upon payment of the amount of such bid shall deliver the said property to such bidder.

Sec. 3. Section 1, chapter 104, Laws of 1961 as last amended by section 3, chapter 154, Laws of 1981 and RCW 63.40.010 are each amended to read as follows:

Whenever any personal property, other than vehicles governed by chapter 46.52 RCW, shall come into the possession of the sheriff of any

county in connection with the official performance of his duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, which notice shall inform the owner of the disposition which may be made of the property under this section and the time that the owner has to claim the property and in all other cases for a period of sixty days from the time said property came into the possession of the sheriff's office, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said county sheriff may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the sheriff's office subject to giving notice in the manner prescribed in RCW 63.40.020 and the right of the owner, or his or her legal representative, to reclaim the property within one year after the receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the county sheriff, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the sheriff shall provide the county's executive or legislative authority and retain for public inspection a list of such retained items and an estimation of each item's replacement value;

(3) Destroy an item of personal property at the discretion of the county sheriff if the county sheriff determines that the following circumstances have occurred:

(a) ((~~The item has been in the possession of the sheriff's office for a period of at least one year from the time of first possession by the office~~)) The property has no substantial commercial value, or the probable cost of sale exceeds the value of the property;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in ((~~RCW 63.40.020~~)) this section; and

(c) The county sheriff has determined that the item is unsafe and unable to be made safe for use by any member of the general public; ((~~or~~))

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.40.020, may be offered by the county sheriff to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section; or

(5) If the item is not unsafe or illegal to possess or sell, but has been, or may be used, in the discretion of the county sheriff, in a manner that is illegal, such item may be destroyed.

Sec. 4. Section 2, chapter 104, Laws of 1961 and RCW 63.40.020 are each amended to read as follows:

Before said personal property shall be sold, ((~~if the name and address of the owner thereof be known, at least ten days' notice of such sale shall be given him either personally or by leaving a written notice at his residence or place of doing business with some person of suitable age and discretion then resident or employed therein; or if the name or residence of the owner be not known;~~)) a notice of such sale fixing the time and place thereof which shall be at a suitable place, which will be noted in the advertisement for sale, and containing a description of the property to be sold shall be published at least once in an official newspaper in said county at least ten days prior to the date fixed for said sale. The notice shall be signed by the sheriff or his deputy. If the owner fails to reclaim said property prior to the time fixed for the sale in such notice, the sheriff or his deputy shall conduct said sale and sell the property described in the notice at public auction to the highest and best bidder for cash, and upon payment of the amount of such bid shall deliver the said property to such bidder.

Passed the Senate March 7, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 133

[House Bill No. 1278]
WEED CONTROL IN LAKES

AN ACT Relating to the removal of weeds from lakes; and adding a new section to chapter 90.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.24 RCW to read as follows:

A superior court may continue its jurisdiction over weed control in those lakes that had been under the court's jurisdiction for such purposes prior to July 28, 1985. The continuing jurisdiction of a superior court for such weed control purposes shall be subject to the provisions of chapter 90-.24 RCW in the same manner as the continuing jurisdiction of a superior court over the maintenance of lake water levels.

The superior court shall hold hearings under RCW 90.24.040 whenever subsequent petitions are filed with it concerning weed control on a lake over which it has continuing jurisdiction for weed control purposes. If the court finds that the weed control proposals are in the best interests of the abutting property owners, it shall determine what measures should be taken to accomplish these objectives, the probable annual cost thereof, and by its order apportion the cost among the persons whose property abuts on the lake in proportion to the lineal feet of waterfront owned by each, which sum shall

constitute a lien against the real property. Payments of these sums shall be made to the county treasurer who shall place these payments into a special fund to be known as "Lake ..... weed removal fund." The court shall appoint a suitable person, to be compensated by the property owners, to undertake weed control activities as decreed by the court.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 134

[Substitute House Bill No. 1297]

IRRIGATION DISTRICTS—DELINQUENT ASSESSMENTS—FORECLOSURES—LIENS

AN ACT Relating to irrigation district foreclosure of property with delinquent assessments; amending RCW 87.03.270; adding a new section to chapter 87.03 RCW; adding a new chapter to Title 87 RCW; and repealing RCW 87.03.310, 87.03.315, 87.03.320, 87.03.325, 87.03.330, 87.03.335, 87.03.340, 87.03.345, 87.03.350, 87.03.355, 87.03.360, 87.03.370, 87.03-.375, 87.03.380, 87.03.385, 87.03.390, 87.03.395, 87.03.400, 87.03.405, 87.03.410, 87.03.415, and 87.03.425.

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) "Date of delinquency" means the date when the assessment first became delinquent under chapter 87.03 RCW.

(2) "Description of property" means a legal description, the parcel number, tax number, or other description that sufficiently describes the property or specific parcel of land.

(3) "Minimum bid sheet" means the informational sheet which is prepared by the treasurer for use at the treasurer's sale and which contains a description of the various properties and the minimum bid required for each.

(4) "Party in interest" means an occupant of the property, the owner of record, and any other person having a financial interest of record in the property.

(5) "Treasurer" means the irrigation district treasurer. However, if the county treasurer acts as ex officio district treasurer in accordance with RCW 87.03.440, then "treasurer" means the county treasurer.

NEW SECTION. Sec. 2. (1) After thirty-six calendar months from the month of the date of delinquency, the treasurer shall prepare certificates of delinquency on the property for the unpaid irrigation district assessments, and for costs and interest. An individual certificate of delinquency may be prepared for each property or the individual certificates may be compiled

and issued in one general certificate including all delinquent properties. Each certificate shall contain the following information:

(a) Description of the property assessed;

(b) Street address of property, if available;

(c) Years for which assessed;

(d) Amount of delinquent assessments, costs, and interest;

(e) Name appearing on the treasurer's most current assessment roll for the property; and

(f) A statement that interest will be charged on the amount listed in (d) of this subsection at a rate of twelve percent per year, computed monthly and without compounding, from the date of the issuance of the certificate and that additional costs, incurred as a result of the delinquency, will be imposed, including the costs of a title search;

(2) The treasurer may provide for the posting of the certificates or other measures designed to advertise the certificates and encourage the payment of the amounts due.

NEW SECTION. Sec. 3. The treasurer shall order a title search of the property for which a certificate of delinquency has been prepared to determine or verify the legal description of the property to be sold and parties in interest.

NEW SECTION. Sec. 4. (1) After the completion of the title searches, the treasurer, in the name of the irrigation district, shall commence legal action to foreclose on the assessment liens. The treasurer shall give notice of application for judgment foreclosing assessment liens and summons to all parties in interest as disclosed by the title search. The treasurer may include in any notice any number of separate properties. Such notice and summons shall contain:

(a) A statement that the irrigation district is applying to superior court of the county in which the property is located for a judgment foreclosing the lien against the property for delinquent assessments, costs, and interest;

(b) The full name of the superior court in which the district is applying for the judgment; and for each property: The description of the property, the local street address (if any), and the name of each party in interest;

(c) A description of the lien amount due, which shall include the amount listed in section 2(1)(d) of this act, plus any costs and interest accruing since the date of preparation of the certificate of delinquency;

(d) A direction to each party in interest summoning the party to appear within sixty days after service of the notice and summons, exclusive of the day of the service, and defend the action or pay the lien amount due; and when service is made by publication, a direction summoning each party to appear within sixty days after the date of the first publication of the notice and summons, exclusive of the day of first publication, and defend the action or pay the amount due;

(e) A notice that, in case of failure to defend or pay the amount due, judgment will be rendered foreclosing the lien of the assessments, costs, and interest against the property; and

(f) The date, time, and place of the foreclosure sale as specified in the application for judgment.

(2) The treasurer shall record in the office of the auditor of the county in which the property is located a notice of lis pendens before commencing the service of the notice and summons.

(3) The notice and summons shall be served in a manner reasonably calculated to inform each party in interest of the foreclosure action. At a minimum, service shall be accomplished by either (a) personal service upon a party in interest, or (b) publication once in a newspaper of general circulation that is circulated in the area in which the property is located and mailing of notice by certified mail to the party in interest.

(4) It shall be the duty of the treasurer to mail a copy of the notice and summons, within fifteen days after the first publication or service thereof, to the treasurer of each county, city, or town within which any property involved in an assessment foreclosure is situated, but the treasurer's failure to do so shall not affect the jurisdiction of the court nor the priority of any assessment lien sought to be foreclosed.

NEW SECTION. Sec. 5. (1) Any party in interest of property for which a certificate of delinquency has been prepared, but against which a foreclosure judgment has not been entered, may pay to the treasurer, in person or by agent, the total amount of the assessment lien, as listed under section 2(1)(d) of this act, plus any additional costs and interest, including any title search costs. If a foreclosure judgment has been entered, then any party in interest may pay to the treasurer, in person or by agent, the lien amount for which the judgment has been rendered, so long as payment is received by the treasurer during regular business hours before the day of the foreclosure sale. The treasurer shall give a receipt for each payment received under this subsection.

(2) Upon receipt of payment under this section, the district shall abandon any foreclosure proceedings commenced against the property. If a notice of lis pendens has been filed with the county auditor, the treasurer shall record a release of lis pendens with the auditor.

NEW SECTION. Sec. 6. (1) The proceedings to foreclose the liens against all properties on a general certificate of delinquency or on more than one individual certificate may be brought in one action.

(2) No assessment, costs, or interest may be considered illegal because of any irregularity in the assessment roll or because the assessment roll has not been made, completed, or returned within the time required by law, or because the property has been charged or listed in the assessment roll without name, or in any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the

assessment may invalidate or in any other manner affect the assessment thereof. Any irregularities or informality in the assessment roll or in any of the proceedings connected with the assessment or any omission or defective act of any officer or officers connected with the assessment may be, at the discretion of the court corrected, supplied, and made to conform to the law by the court. This section does not apply if the court finds that the failure to conform to the law unfairly affects parties in interest.

NEW SECTION. Sec. 7. (1) If the court renders a judgment of foreclosure, the court shall direct the treasurer to proceed with the sale of the property and shall specify the minimum sale price below which the property is not to be sold.

(2) The treasurer shall sell the property to the highest and best bidder. All sales shall be made on Friday between the hours of nine a.m. and five p.m. at a location designated by the treasurer. However, sales not concluded on Friday shall be continued from day to day, Saturdays, Sundays, and holidays excluded, during the same hours until all properties are sold.

NEW SECTION. Sec. 8. (1) The treasurer shall post notice of the foreclosure sale, at least ten days before the sale, at the following locations: At the courthouse of the county in which the property is located, at the district office, and at a public place in the district. The treasurer shall also publish, at least once and not fewer than ten days before the sale, the notice in any daily or weekly legal newspaper of general circulation in the district.

(2) The notice shall be in substantially the following form:

IRRIGATION ASSESSMENT JUDGMENT SALE

Public notice is hereby given that pursuant to judgment, rendered on ....., of the superior court of the county of ..... in the state of Washington, that I shall sell the property described below, at a foreclosure sale beginning at ..... (time), on ..... (date), at ..... (location), in the city of ....., and county of ....., state of Washington. This sale is made in order to pay for delinquent assessments, costs, and interest owed to .....
The property will be sold to the highest and best bidder but bids will not be accepted for less than the minimum sale price set by the superior court. The minimum sale price is listed on the bid sheet, a copy of which is provided at the treasurer's office. Payment must be made at time of sale and must be by cash, bank cashier's check, or a negotiable instrument of equivalent security.

Description of property: .....

Interested parties and members of the public are invited to participate in this sale. This sale will not take place if by ..... (time), on ..... (date), the amount due, ..., is paid in the manner specified by law.

.....
Treasurer for .....
Irrigation District
Date signed: .....

(3) The treasurer shall conduct the sale in conformance with the notice and this chapter. If the sale is conducted by the county treasurer, no county or district officer or employee may directly or indirectly be a purchaser. If the irrigation district treasurer conducts the sale, no officer or employee of the district may directly or indirectly be a purchaser.

(4) If the bid amount paid for the property is in excess of the lien amount for which the judgment has been rendered, plus any additional assessments, costs, and interest which have become due after the date of preparation of the certificate of delinquency and before the date of sale, then the excess shall be remitted, on application therefor, to the owner of the property. If no claim for the excess is received by the treasurer within three years after the date of the sale, the treasurer, at expiration of the three-year period, shall deposit the excess in the current expense fund of the district.

NEW SECTION. Sec. 9. (1) The treasurer shall execute a treasurer's deed to any person who purchases property at the foreclosure sale. The deed shall vest title to the property therein described, without further acknowledgment or evidence of such conveyance, in the grantee or his or her heirs and assigns. The treasurer's deed shall be substantially in the following form:

TREASURER'S DEED

State of Washington
County of .....

This indenture, made this ..... day of ....., ..., between ....., as treasurer of ..... irrigation district, state of Washington, party of the first part, and ....., party of the second part:

Witnesseth, that whereas, at the public sale of real property held on the ..... day of ....., ..., pursuant to an irrigation assessment judgment entered in the superior court in the county of ..... on the ..... day of ....., ..., in proceedings to foreclose assessment liens upon real property and an order of sale duly issued by the court, ... duly purchased in compliance with the laws of the state of Washington, for and in consideration of the sum of ..... dollars the following described real property, to wit: (Here place description of real property conveyed) and that ..... has complied with the laws of the state of Washington necessary to entitle (him, her, or them) to a deed for the real property.

Now, therefore know ye, that, I ....., treasurer of said irrigation district of ....., state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases provided, do hereby grant and convey unto ....., his or her heirs and assigns, forever, the real property hereinbefore described, as fully and completely as said party of the first part can by virtue of the premises convey the same.

Given under my hand and seal of office this ..... day of ....., A.D. .....

.....

Treasurer for .....

Irrigation District

(2) The title shall be free from all encumbrances except for the following taxes and assessments if they are not due at the time of the foreclosure sale: Property taxes, drainage or diking district assessments, drainage or diking improvement district assessments, and irrigation district assessments.

NEW SECTION. Sec. 10. (1) Prior to the treasurer executing and conveying the deed, all persons or entities acquiring property at the foreclosure sale shall be required to pay the full amount of all assessments, costs, and interest for which judgment is rendered; and the full amount of the following if due at the time of the foreclosure sale: Property taxes, drainage or diking district assessments, drainage or diking district improvement assessments, irrigation district assessments, and costs and interests relating to such taxes or assessments. This subsection does not apply to the irrigation district's acquisition of property.

(2) At all sales of property, if no other bids are received, title to the property shall vest in the irrigation district and the district shall pay to the county any costs that may have been incurred by the county under this chapter for the foreclosure action. The district's acquisition of the title shall be as absolute as if the property had been purchased by an individual under the provisions of this chapter. The deed provided for in section 9 of this act shall be conveyed to the irrigation district.

(3) All property deeded to the district under the provisions of this chapter shall be stricken from the tax rolls as district property and exempt from taxation and shall not be taxed while property of the district.

(4) If the irrigation district sells any property it has acquired under this chapter, then it shall not provide a deed to the purchaser until the purchaser pays all drainage or diking district assessments, drainage or diking improvement district assessments, irrigation district assessments, property taxes, costs, and interest that were due at the time the irrigation district acquired title to the property.

NEW SECTION. Sec. 11. The board of directors of the irrigation district and the county treasurer may through the interlocal cooperation agreement act, chapter 39.34 RCW, choose to have one of the treasurers proceed with a combined foreclosure for all property taxes, irrigation assessments, and all costs and interest owing to both entities. Any such agreement shall include a specific statement as to which entity shall assume title if no bids are received equal to or greater than the amount listed on the minimum bid sheet. The agreement shall also clearly specify how any unclaimed excess funds from the sale will be divided between the county and the irrigation district.

NEW SECTION. Sec. 12. (1) Except as provided in subsection (2) of this section, certificates of delinquency shall also be issued, and foreclosure proceedings instituted under this chapter, for properties for which assessments have been delinquent for a period of three or more years, if all or part of such period occurred before the effective date of this section. If foreclosure actions have been commenced but not completed under the law as it existed prior to the effective date of this section, the district shall abandon such actions and proceed against such properties under this chapter.

(2) Certificates of delinquency shall not be issued under this chapter for properties that have been sold (other than to the irrigation district) under foreclosure proceedings which occurred prior to the effective date of this section. This section does not apply to any foreclosure sale declared to be invalid by a court of competent jurisdiction or if district assessments again become delinquent after the date of sale.

(3) A certificate of delinquency may be issued, and foreclosure proceedings instituted, under this chapter for property acquired by an irrigation district under foreclosure proceedings which occurred prior to the effective date of this section and which the district believes might be legally defective. "Acquired" as used in this subsection also includes the district's obtaining a certificate of sale under such foreclosure proceedings.

Sec. 13. Section 24, page 684, Laws of 1889–90 as last amended by section 1, chapter 102, Laws of 1982 and RCW 87.03.270 are each amended to read as follows:

The assessment roll, before its equalization and adoption, shall be checked and compared as to descriptions and ownerships, with the county treasurer's land rolls. On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregation thereof to the county treasurer of each respective county in which the lands therein described are located, and said assessments shall become due and payable on the fifteenth day of February following.

All assessments on said roll shall become delinquent on the first day of May following the filing of the roll unless the assessments are paid on or

before the thirtieth day of April of said year: PROVIDED, That if an assessment is ten dollars or more for said year and if one-half of the assessment is paid on or before the thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date. All delinquent assessments shall bear interest at the rate of twelve percent per annum, computed on a monthly basis and without compounding, from the date of delinquency until paid.

Upon receiving the assessment roll the county treasurer shall prepare therefrom an assessment book in which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

On or before April 1st of each year, the treasurer of the district shall send a statement of assessments due. County treasurers who collect irrigation district assessments may send the statement of irrigation district assessments together with the statement of general taxes.

Upon payment of any assessment the county treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed.

It shall be the duty of the treasurer of the district to furnish upon request of the owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his office upon land described in such request. All statements of irrigation district assessments covering any land in the district shall show the amount of the irrigation district assessment, the dates on which the assessment is due, the place of payment, and, if the property was sold for delinquent assessments in a prior year, the amount of the delinquent assessment and the notation "certificate issued": PROVIDED, That the failure of the treasurer to render any statement herein required of him shall not render invalid any assessments made by any irrigation district.

It shall be the duty of the county treasurer of any county, other than the county in which the office of the board of directors is located, to make monthly remittances to the county treasurer of the county in which the office of the board of directors is located covering all amounts collected by him for the irrigation district during the preceding month.

When the treasurer collects a delinquent assessment, ((~~in addition to~~)) the treasurer shall collect any other amounts due by reason of the delinquency, ((~~he shall collect an additional sum of ten dollars~~)) including accrued costs, which shall be deposited to the treasurer's operation and maintenance fund.

NEW SECTION. Sec. 14. A new section is added to chapter 87.03 RCW to read as follows:

The lien for delinquent assessments shall include the district's and treasurer's costs attributable to the delinquency and interest at the rate of twelve percent per year, computed monthly and without compounding, on the assessments and costs. The word "costs" as used in this section includes all costs of collection, including but not limited to reasonable attorneys' fees, publication costs, costs of preparing certificates of delinquency, title searches, and the costs of foreclosure proceedings.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) Section 25, page 684, Laws of 1889–90, section 13, chapter 165, Laws of 1913, section 15, chapter 179, Laws of 1915, section 6, chapter 162, Laws of 1917, section 13, chapter 180, Laws of 1919, section 17, chapter 129, Laws of 1921, section 2, chapter 181, Laws of 1929, section 3, chapter 60, Laws of 1931, section 6, chapter 43, Laws of 1933, section 1, chapter 60, Laws of 1955, section 2, chapter 209, Laws of 1981, section 87, chapter 469, Laws of 1985 and RCW 87.03.310;

(2) Section 26, page 685, Laws of 1889–90, section 13, chapter 165, Laws of 1895, section 14, chapter 165, Laws of 1913, section 18, chapter 129, Laws of 1921, section 3, chapter 181, Laws of 1929, section 4, chapter 60, Laws of 1931, section 7, chapter 43, Laws of 1933, section 3, chapter 209, Laws of 1981 and RCW 87.03.315;

(3) Section 2, chapter 58, Laws of 1955, section 4, chapter 209, Laws of 1981 and RCW 87.03.320;

(4) Section 3, chapter 58, Laws of 1955, section 5, chapter 209, Laws of 1981 and RCW 87.03.325;

(5) Section 4, chapter 58, Laws of 1955, section 6, chapter 209, Laws of 1981 and RCW 87.03.330;

(6) Section 28, page 686, Laws of 1889–90, section 15, chapter 165, Laws of 1895, section 16, chapter 165, Laws of 1913, section 20, chapter 129, Laws of 1921, section 10, chapter 43, Laws of 1933, section 7, chapter 209, Laws of 1981 and RCW 87.03.335;

(7) Section 1, chapter 172, Laws of 1941 and RCW 87.03.340;

(8) Section 2, chapter 172, Laws of 1941 and RCW 87.03.345;

(9) Section 3, chapter 172, Laws of 1941, section 8, chapter 209, Laws of 1981 and RCW 87.03.350;

(10) Section 29, page 687, Laws of 1889–90, section 16, chapter 165, Laws of 1895, section 5, chapter 13, Laws of 1913, section 17, chapter 165, Laws of 1913, section 16, chapter 179, Laws of 1915, section 7, chapter 162, Laws of 1917, section 21, chapter 129, Laws of 1921, section 12, chapter 138, Laws of 1923, section 2, chapter 185, Laws of 1929, section 11, chapter 43, Laws of 1933, section 5, chapter 171, Laws of 1939, section

5, chapter 58, Laws of 1955, section 9, chapter 209, Laws of 1981 and RCW 87.03.355;

(11) Section 6, chapter 171, Laws of 1939, section 10, chapter 209, Laws of 1981 and RCW 87.03.360;

(12) Section 30, page 687, Laws of 1889–90, section 17, chapter 165, Laws of 1895, section 1, chapter 101, Laws of 1935, section 1, chapter 256, Laws of 1943, section 1, chapter 131, Laws of 1945, section 11, chapter 209, Laws of 1981 and RCW 87.03.370;

(13) Section 1, chapter 194, Laws of 1933, section 12, chapter 209, Laws of 1981 and RCW 87.03.375;

(14) Section 2, chapter 194, Laws of 1933, section 1, chapter 171, Laws of 1939, section 13, chapter 209, Laws of 1981 and RCW 87.03.380;

(15) Section 3, chapter 194, Laws of 1933, section 14, chapter 209, Laws of 1981 and RCW 87.03.385;

(16) Section 4, chapter 194, Laws of 1933, section 15, chapter 209, Laws of 1981 and RCW 87.03.390;

(17) Section 5, chapter 194, Laws of 1933 and RCW 87.03.395;

(18) Section 6, chapter 194, Laws of 1933 and RCW 87.03.400;

(19) Section 7, chapter 194, Laws of 1933 and RCW 87.03.405;

(20) Section 8, chapter 194, Laws of 1933, section 170, chapter 81, Laws of 1971 and RCW 87.03.410;

(21) Section 9, chapter 194, Laws of 1933 and RCW 87.03.415; and

(22) Section 32, page 688, Laws of 1889–90 and RCW 87.03.425.

NEW SECTION. Sec. 16. Sections 1 through 12 of this act shall constitute a new chapter in Title 87 RCW.

Passed the House March 7, 1988.
Passed the Senate February 26, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 135

[Substitute House Bill No. 1469]

PROPERTY EXCHANGE BY THE DEPARTMENT OF TRANSPORTATION—LAND OR IMPROVEMENTS

AN ACT Relating to exchange of property by the department of transportation; amending RCW 47.12.063; and repealing RCW 47.12.130.

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

Sec. 1. Section 1, chapter 78, Laws of 1977 ex. sess. as amended by section 125, chapter 3, Laws of 1983 and RCW 47.12.063 are each amended to read as follows:

(1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for ((~~highway~~)) transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or improvements or for construction of improvements at fair market value to any of the following governmental entities or persons:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) The former owner of the property from whom the state acquired title;

(e) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state; ((~~and~~))

(f) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(g) To any person through the solicitation of written bids through public advertising in the manner prescribed by RCW 47.28.050; or

(h) To any other owner of real property required for transportation purposes.

((~~(2)~~)) (3) Sales to purchasers may at the department's option be for cash ((~~or~~)), by real estate contract, or exchange of land or improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

((~~(3) The department may agree with the owner of real property required for highway purposes to convey to such owner real property under the jurisdiction of the department which is no longer required for highway purposes as all or part consideration for the property to be acquired for highway purposes.~~))

(4) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(5) All moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

NEW SECTION. Sec. 2. Section 47.12.130, chapter 13, Laws of 1961, section 4, chapter 96, Laws of 1975 1st ex. sess., section 51, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.130 are each repealed.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 136

[Substitute House Bill No. 1562]
PUBLIC LANDS—VALUABLE MATERIALS—DIRECT SALES

AN ACT Relating to direct sales of valuable materials from public lands; and amending RCW 79.01.200, 79.01.132, and 79.01.184.

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

Sec. 1. Section 50, chapter 255, Laws of 1927 as last amended by section 2, chapter 54, Laws of 1979 and RCW 79.01.200 are each amended to read as follows:

All sales of land shall be at public auction, and all sales of valuable materials shall be at public auction or by sealed bid to the highest bidder, on the terms prescribed by law and as specified in the notice provided, and no land or materials shall be sold for less than its appraised value: PROVIDED, That on public lands granted to the state for educational purposes sealed bids may be accepted for sales of timber or stone only: PROVIDED FURTHER, That when valuable material has been appraised at an amount not exceeding twenty thousand dollars, the department of natural resources, when authorized by the board of natural resources, may arrange for the sale at public auction of said valuable material and for its removal under such terms and conditions as the department may prescribe, after the department shall have caused to be published ten days prior to sale a notice of such sale in a newspaper of general circulation located nearest to property to be sold: AND PROVIDED FURTHER, That any sale of ((~~timber, fallen timber, stone, gravel, sand, fill material, or building stone~~)) valuable materials of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash without notice or advertising.

Sec. 2. Section 16, chapter 2, Laws of 1983 and RCW 79.01.132 are each amended to read as follows:

When any timber, fallen timber, stone, gravel, or other valuable material on state lands is sold separate from the land, it may be sold as a lump sum sale or as a scale sale: PROVIDED, That upon the request of the purchaser, any lump sum sale over five thousand dollars appraised value shall be on the installment plan. Lump sum sales under five thousand dollars appraised value shall be paid for in cash. The initial deposits required in RCW

79.01.204, not to exceed twenty–five percent of the actual or projected purchase price, but in the case of lump sum sales over five thousand dollars not less than five thousand dollars, shall be made on the day of the sale. The purchaser shall notify the department of natural resources before any timber is cut and before removal or processing of any valuable materials on the sale area, at which time the department of natural resources may require, in the amount determined by the department, advance payment for the removal, processing, and/or cutting of timber or other valuable materials, or bank letters of credit, payment bonds, or assignments of savings accounts acceptable to the department as adequate security. The amount of such advance payments and/or security shall at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for. The initial deposit shall be maintained until all contract obligations of the purchaser are satisfied: PROVIDED HOWEVER, That all or a portion of said initial deposit may be applied as the final payment for said materials in the event the department of natural resources determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

In all cases where timber, fallen timber, stone, gravel, or other valuable material is sold separate from the land, the same shall revert to the state if not removed from the land within the period specified in the sale contract. Said specified period shall not exceed five years from the date of the purchase thereof: PROVIDED, That the specified periods in the sale contract for stone, sand, fill material, or building stone shall not exceed twenty years: PROVIDED FURTHER, That in all cases where, in the judgment of the department of natural resources, the purchaser is acting in good faith and endeavoring to remove such materials, the department of natural resources may extend the time for the removal thereof for any period not exceeding twenty years from the date of purchase for the stone, sand, fill material or building stone or for a total of ten years beyond the normal termination date specified in the original sale contract for all other material, upon payment to the state of a sum to be fixed by the department of natural resources, based on the estimated loss of income per acre to the state resulting from the granting of the extension but in no event less than fifty dollars per extension, plus interest on the unpaid portion of the contract. The interest rate shall be fixed, from time to time, by rule adopted by the board of natural resources and shall not be less than six percent per annum. The applicable rate of interest as fixed at the date of sale and the maximum extension payment shall be set forth in the contract. The method for calculating the unpaid portion of the contract upon which such interest shall be paid by the purchaser shall be set forth in the contract. The department of natural resources shall pay into the state treasury all sums received for such extension and the same shall be credited to the fund to which was credited the original purchase price of the material so sold: AND PROVIDED FURTHER,

That any sale of ((~~timber, fallen timber, stone, gravel, sand, fill material, or building stone~~)) valuable materials of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash at full appraised value without notice or advertising.

The provisions of this section apply unless otherwise provided by statute.

Sec. 3. Section 17, chapter 2, Laws of 1983 and RCW 79.01.184 are each amended to read as follows:

When the department of natural resources shall have decided to sell any state lands or valuable materials thereon, or with the consent of the board of regents of the University of Washington, or by legislative directive, shall have decided to sell any lot, block, tract, or tracts of university lands, or the timber, fallen timber, stone, gravel, or other valuable material thereon it shall be the duty of the department to forthwith fix the date, place, and time of sale, and no sale shall be had on any day which is a legal holiday.

The department shall give notice of the sale by advertisement published once a week for four weeks next before the time it shall name in said notice, in at least one newspaper published and of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold, or the material upon which is to be sold is situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office and the area headquarters administering such sale and in the office of the county auditor of such county, which notice shall specify the place and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold, or from which valuable materials are to be sold, and in case of material sales the estimated volume thereof, and specify that the terms of sale will be posted in the area headquarters and the department's Olympia office: PROVIDED, That any sale of ((~~timber, fallen timber, stone, gravel, sand, fill material, or building stone~~)) valuable materials of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash at the full appraised value without notice or advertising.

Passed the House February 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 137

[Substitute Senate Bill No. 6217]
PROSSER WELL

AN ACT Relating to the Prosser well at the Washington State University research center; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. The department of ecology shall sell its ownership interest in the Prosser well at the Washington State University research center for fair market value, to accommodate the needs of all concerned parties for the 1988 irrigation season. The proceeds of the sale shall be deposited in the state emergency water project revolving account established under RCW 43.83B.300. The department of ecology shall, to the extent possible, work closely with the department of general administration under RCW 43.82.010 to expedite the sale of the Prosser well. As a prerequisite to sale, the parties who agree to purchase the Prosser well according to this section, shall agree to be bound by any existing agreements between the department of ecology and the Washington State University research center at Prosser regarding the operation and maintenance of the Prosser well. The parties agree that the sale of the department of ecology's interest in the Prosser well will require compliance with chapter 90.44 RCW.

NEW SECTION. Sec. 2. The sum of one hundred fifty thousand dollars or as much thereof as may be necessary is appropriated from the emergency water projects revolving account to the department of ecology for the biennium ending June 30, 1989, for capital projects authorized under RCW 43.83B.300 to alleviate drought conditions. Expenditures of moneys appropriated under this section shall not exceed the amount of moneys deposited in the revolving account from the sale of the department of ecology's ownership interest in the well near Prosser under section 1 of this act.

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

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 138

[Substitute Senate Bill No. 6255]

IDAHO—EXEMPTIONS FROM INTERSTATE TRIP PERMITS AUTHORIZED

AN ACT Relating to exemptions from interstate trip permits for commercial vehicles; adding a new section to chapter 81.80 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 81.80 RCW to read as follows:

The Washington utilities and transportation commission may enter into an agreement or arrangement with a duly authorized representative of the state of Idaho, for the purpose of granting to operators of commercial vehicles that are properly registered in the state of Idaho, the privilege of operating their vehicles in this state within a designated area near the border of their state without the need for registration as required by chapter 81.80 RCW if the state of Idaho grants a similar privilege to operators of commercial vehicles from this state. The initial designated area shall be limited to state route 195 from the Idaho border to Lewiston, and SR 12 from Lewiston to Clarkston. The utilities and transportation commission shall submit other proposed reciprocal agreements in designated border areas to the legislative transportation committee for approval.

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 7, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 139

[Substitute Senate Bill No. 6357]

CONTRACTORS—CLAIMS AGAINST BOND OR DEPOSIT

AN ACT Relating to contractors' bonds; and amending RCW 18.27.040.

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

Sec. 1. Section 4, chapter 77, Laws of 1963 as last amended by section 6, chapter 362, Laws of 1987 and RCW 18.27.040 are each amended to read as follows:

(1) Each applicant shall, at the time of applying for or renewing a certificate of registration, file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the department running to the state of Washington if a general contractor, in the sum of six thousand dollars; if a specialty contractor, in the sum of four thousand dollars, conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing labor or material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of negligent or improper work or breach of contract in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a

bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) Any contractor registered as of the effective date of this 1983 act who maintains such registration in accordance with this chapter shall be in compliance with this chapter until the next annual renewal of the contractor's certificate of registration. At that time, the contractor shall provide a bond, cash deposit, or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall renew the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit upon such bond or deposit in the superior court of the county in which the work ((is)) was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon such bond or deposit shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date of expiration of the certificate of registration in force at the time the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was completed. Service of process in an action ((~~upon such~~)) against the contractor, the contractor's bond, or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee of ten dollars to cover the handling costs shall be served by registered or certified mail upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the ten-dollar fee and three copies of the summons and complaint. Such service shall constitute service on the registrant and the surety for suit upon the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the registrant at the address listed in his application and to the surety within forty-eight hours after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department 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 but if the actions commenced and pending at

any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

(a) Labor, including employee benefits;

(b) Claims for breach of contract by a party to the construction contract;

(c) Material and equipment;

(d) Taxes and contributions due the state of Washington;

(e) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover.

(5) In the event that any final judgment shall impair the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the department shall suspend the registration of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims shall have been furnished. If such bond becomes fully impaired, a new bond must be furnished at the increased rates prescribed by this section as now or hereafter amended.

(6) In lieu of the surety bond required by this section the contractor may file with the department a deposit consisting of cash or other security acceptable to the department.

(7) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(8) The director may promulgate rules necessary for the proper administration of the security.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 140

[Senate Bill No. 6396]

APPRENTICES OR TRAINEES—INDUSTRIAL INSURANCE

AN ACT Relating to apprentice industrial insurance; and amending RCW 51.12.130.

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

Sec. 1. Section 1, chapter 110, Laws of 1973 as amended by section 31, chapter 185, Laws of 1987 and RCW 51.12.130 are each amended to read as follows:

(1) All persons registered as apprentices or trainees with the state apprenticeship council and participating in supplemental and related instruction classes conducted by a school district, a community college, a vocational school, or a local joint apprenticeship committee, shall be considered as workers of the state apprenticeship council and subject to the provisions of Title 51 RCW, for the time spent in actual attendance at such supplemental and related instruction classes.

(2) The assumed wage rate for all apprentices or trainees during the hours they are participating in supplemental and related instruction classes, shall be three dollars per hour. This amount shall be used for purposes of computations of premiums((~~, and~~)). For purposes of ((~~computations of~~)) computing disability compensation payments, the actual wage rate during employment shall be used.

(3) Only those apprentices or trainees who are registered with the state apprenticeship council prior to their injury or death and who incur such injury or death while participating in supplemental and related instruction classes shall be entitled to benefits under the provisions of Title 51 RCW.

(4) The filing of claims for benefits under the authority of this section shall be the exclusive remedy of apprentices or trainees and their beneficiaries for injuries or death compensable under the provisions of Title 51 RCW against the state, its political subdivisions, the school district, community college, or vocational school and their members, officers or employees or any employer regardless of negligence.

(5) This section shall not apply to any apprentice or trainee who has earned wages for the time spent in participating in supplemental and related instruction classes.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 18, 1988.
Filed in Office of Secretary of State March 18, 1988.

CHAPTER 141

[Substitute House Bill No. 692]

CONTROLLED SUBSTANCES—BUILDINGS WHERE CONTROLLED SUBSTANCES ACTIVITIES OCCUR ARE NUISANCES—ABATEMENT

AN ACT Relating to controlled substances; amending RCW 7.48.052, 7.48A.010, and 7.48A.020; adding a new chapter to Title 7 RCW; prescribing penalties; and declaring an emergency.

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

Sec. 1. Section 2, chapter 1, Laws of 1979 and RCW 7.48.052 are each amended to read as follows:

The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every place in the state where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(4) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a moral nuisance under this section;

(6) Every place which, as a regular course of business, is used for the purpose of lewdness, assignation, or prostitution, and every such place in or upon which acts of lewdness, assignation, or prostitution are conducted, permitted, carried on, continued, or exist;

(7) All public houses or places of resort where illegal gambling is carried on or permitted; all houses or places within any city, town, or village, or upon any public road, or highway where drunkenness, illegal gambling, fighting, or breaches of the peace are carried on or permitted; ((~~all opium dens, or houses, or places of resort where opium smoking is permitted~~)) all houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection or any other means.

Sec. 2. Section 1, chapter 184, Laws of 1982 and RCW 7.48A.010 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual or violent conduct which appears in the lewd matter, or knowledge of the acts of lewdness or prostitution which occur on the premises, or knowledge that controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, or injection or any other means.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which explicitly depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or

(iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

(c) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Matter" shall mean a motion picture film or a publication or both.

(5) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Film, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(6) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(7) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(8) "Prurient" means that which incites lasciviousness or lust.

(9) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or coin-operated machine.

(10) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

Sec. 3. Section 2, chapter 184, Laws of 1982 and RCW 7.48A.020 are each amended to read as follows:

The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(3) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(4) Every place which, as a regular course of business, is used for the purpose of lewdness or prostitution, and every such place in or upon which acts of lewdness or prostitution are conducted, permitted, carried on, continued, or exist;

(5) All houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered, or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection, or any other means.

NEW SECTION. Sec. 4. (1) Every building or unit within a building used for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance as defined in chapter 69.50 RCW, legend drug as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW, and every building or unit within a building wherein or upon which such acts take place, is a nuisance which shall be enjoined, abated, and prevented, whether it is a public or private nuisance.

(2) As used in this chapter, "building" includes, but is not limited to, any structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

NEW SECTION. Sec. 5. The action provided for in section 4 of this act shall be brought in the superior court in the county in which the property is located. Such action shall be commenced by the filing of a complaint alleging the facts constituting the nuisance.

Any complaint filed under this chapter shall be verified or accompanied by affidavit. For purposes of showing that the owner or his or her agent has had an opportunity to abate the nuisance, the affidavit shall contain a description of all attempts by the applicant to notify and locate the owner of the property or the owner's agent.

In addition, the affidavit shall describe in detail the adverse impact associated with the property on the surrounding neighborhood. "Adverse impact" includes, but is not limited to, the following: Any search warrants served on the property where controlled substances were seized; investigative purchases of controlled substances on or near the property by law enforcement or their agents; arrests of persons who frequent the property for violation of controlled substances laws; increased volume of traffic associated with the property; and the number of complaints made to law enforcement of illegal activity associated with the property.

After filing the complaint, the court shall grant a hearing within three business days after the filing.

NEW SECTION. Sec. 6. Upon application for a temporary restraining order or preliminary injunction, the court may, upon a showing of good cause, issue an ex parte restraining order or preliminary injunction, preventing the defendant and all other persons from removing or in any manner interfering with the personal property and contents of the place where the nuisance is alleged to exist and may grant such preliminary equitable relief as is necessary to prevent the continuance or recurrence of the nuisance pending final resolution of the matter on the merits. However, pending the decision, the stock in trade may not be so restrained, but an inventory and full accounting of all business transactions may be required.

The restraining order or preliminary injunction may be served by handing to and leaving a copy with any person in charge of the place or residing in the place, or by posting a copy in a conspicuous place at or upon one or more of the principal doors or entrances to the place, or by both delivery and posting. The officer serving the order or injunction shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining the nuisance.

Any violation of the order or injunction is a contempt of court, and where such order or injunction is posted, mutilation or removal thereof while the same remains in force is a contempt of court if such posted order or injunction contains a notice to that effect.

NEW SECTION. Sec. 7. A temporary restraining order or preliminary injunction shall not issue under this chapter except upon the giving of a bond or security by the applicant, in the sum that the court deems proper, but not less than one thousand dollars, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained or enjoined. A bond or security shall not be required of the state of Washington, municipal corporations, or political subdivisions of the state of Washington.

NEW SECTION. Sec. 8. An action under this chapter shall have precedence over all other actions, except prior matters of the same character, criminal proceedings, election contests, hearings on temporary restraining orders and injunctions, and actions to forfeit vehicles used in violation of the uniform controlled substances act.

NEW SECTION. Sec. 9. (1) If the complaint under this chapter is filed by a citizen, the complaint shall not be dismissed by the citizen for want of prosecution except upon a sworn statement made by the citizen and the citizen's attorney, if the citizen has one. The statement shall set forth the reasons why the action should be dismissed. The case shall only be dismissed if so ordered by the court.

(2) In case of failure to prosecute the action with reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any other citizen consenting to be substituted for the plaintiff.

NEW SECTION. Sec. 10. A copy of the complaint, together with a notice of the time and place of the hearing of the action shall be served upon the defendant at least one business day before the hearing. Service may also be made by posting the papers in the same manner as is provided for in section 6 of this act. If the hearing is then continued at the request of any defendant, all temporary orders and injunctions shall be extended as a matter of course.

NEW SECTION. Sec. 11. (1) Except as provided in subsection (2) of this section, if the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the final judgment in the case. Plaintiff's costs in the action, including those of abatement, are a lien upon the building or unit within a building. The lien is enforceable and collectible by execution issued by order of the court.

(2) If the court finds and concludes that the owner of the building or unit within a building: (a) Had no knowledge of the existence of the nuisance or has been making reasonable efforts to abate the nuisance, (b) has not been guilty of any contempt of court in the proceedings, and (c) will immediately abate any such nuisance that may exist at the building or unit within a building and prevent it from being a nuisance within a period of one year thereafter, the court shall, if satisfied of the owner's good faith, order the building or unit within a building to be delivered to the owner, and no order of abatement shall be entered. If an order of abatement has been entered and the owner subsequently meets the requirements of this subsection, the order of abatement shall be canceled.

NEW SECTION. Sec. 12. Any final order of abatement issued under this chapter shall:

(1) Direct the removal of all personal property subject to seizure and forfeiture pursuant to RCW 69.50.505 from the building or unit within a building, and direct their disposition pursuant to the forfeiture provisions of RCW 69.50.505;

(2) Provide for the immediate closure of the building or unit within a building against its use for any purpose, and for keeping it closed for a period of one year unless released sooner as provided in this chapter; and

(3) State that while the order of abatement remains in effect the building or unit within a building shall remain in the custody of the court.

NEW SECTION. Sec. 13. In all actions brought under this chapter, the proceeds and all moneys forfeited pursuant to the forfeiture provisions of RCW 69.50.505 shall be applied as follows:

(1) First, to the fees and costs of the removal and sale;

(2) Second, to the allowances and costs of closing and keeping closed the building or unit within a building;

(3) Third, to the payment of the plaintiff's costs in the action; and

(4) Fourth, the balance, if any, to the owner of the property.

If the proceeds of the sale of items subject to seizure and forfeiture do not fully discharge all of the costs, fees, and allowances, the building or unit within a building shall then also be sold under execution issued upon the order of the court, and the proceeds of the sale shall be applied in a like manner.

A building or unit within a building shall not be sold under this section unless the court finds and concludes by clear and convincing evidence that the owner of the building or unit within a building had actual or constructive knowledge or notice of the existence of the nuisance. However, this shall not be construed as limiting or prohibiting the entry of any final order of abatement as provided in this chapter.

NEW SECTION. Sec. 14. An intentional violation of a restraining order, preliminary injunction, or order of abatement under this chapter is punishable as a contempt of court by a fine of not more than ten thousand dollars which may not be waived, or by imprisonment for not more than one year, or by both.

NEW SECTION. Sec. 15. Whenever the owner of a building or unit within a building upon which the act or acts constituting the contempt have been committed, or the owner of any interest in the building or unit has been guilty of a contempt of court, and fined in any proceedings under this chapter, the fine is a lien upon the building or unit within a building to the extent of the owner's interest. The lien is enforceable and collectible by execution issued by order of the court.

NEW SECTION. Sec. 16. The abatement of a nuisance under this chapter does not prejudice the right of any person to recover damages for its past existence.

NEW SECTION. Sec. 17. Sections 4 through 16 of this act constitute a new chapter in Title 7 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 House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 142

[Substitute House Bill No. 608]

CHILD ABUSE OR NEGLECT—MALICIOUS REPORTING, MISDEMEANOR

AN ACT Relating to malicious reporting of child abuse or neglect; amending RCW 26.44.060; reenacting and amending RCW 26.44.020 and 26.44.030; and prescribing penalties.

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

Sec. 1. Section 2, chapter 13, Laws of 1965 as last amended by section 2, chapter 206, Laws of 1987 and by section 9, chapter 524, Laws of 1987 and RCW 26.44.020 are each reenacted and amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

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

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing

social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Child abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein: PROVIDED, That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare, and safety: AND PROVIDED FURTHER, That nothing in this section shall be used to prohibit the reasonable use of corporal punishment as a means of discipline. No parent or guardian shall be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other handicap.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: PROVIDED, That no persons reporting injury, abuse, or neglect to an adult dependent person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and the person reporting believes in good faith that the adult dependent person has been found legally incompetent pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing,

permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71.20.016.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard the general welfare of such children and shall include investigations of child abuse and neglect reports, including reports regarding child care centers and family child care homes, and the development, management, and provision of or referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

Sec. 2. Section 3, chapter 13, Laws of 1965 as last amended by section 3, chapter 206, Laws of 1987, by section 23, chapter 512, Laws of 1987, and by section 10, chapter 524, Laws of 1987 and RCW 26.44.030 are each reenacted and amended to read as follows:

(1) When any practitioner, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, or juvenile probation officer has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect, he or she 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 or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or

to the department of social and health services as provided in RCW 26.44.040.

(3) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her 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 or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her 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, with consultants designated by the department, 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) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment,

the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(8) 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.

(9) Upon receiving reports of abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(10) Upon receiving a report of incidents, conditions, or circumstances of child abuse and neglect, the department shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(11) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(12) The department of social and health services shall, within funds appropriated for this purpose, use a risk assessment tool when investigating child abuse and neglect referrals. The tool shall be used, on a pilot basis, in three local office service areas. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall report to the ways and means committees of the senate and house of representatives on the use of the tool by December 1, 1988. The report shall include recommendations on the continued use and possible expanded use of the tool.

(13) Upon receipt of such report the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

Sec. 3. Section 6, chapter 13, Laws of 1965 as last amended by section 9, chapter 129, Laws of 1982 and RCW 26.44.060 are each amended to read as follows:

(1) (a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or

testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

Passed the House March 10, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 143

[Substitute House Bill No. 1271]
DEPARTMENT OF CORRECTIONS

AN ACT Relating to the department of corrections; amending RCW 72.12.160, 72.02-.100, 72.02.110, 72.13.110, 72.13.120, 72.13.130, 72.13.140, 72.13.150, 72.13.160, 72.08.380, 9.94A.170, 9.94A.383, and 9.94A.400; reenacting and amending RCW 72.01.050 and 9.94A-.120; adding new sections to chapter 72.02 RCW; creating new sections; recodifying RCW 72-.12.160, 72.13.110, 72.13.120, 72.13.130, 72.13.140, 72.13.150, 72.13.160, 72.15.060, and 72.08.380; repealing RCW 72.02.050, 72.08.010, 72.08.020, 72.08.040, 72.08.045, 72.08.050, 72.08.080, 72.08.090, 72.08.101, 72.08.102, 72.08.103, 72.08.120, 72.08.130, 72.08.160, 72.12-.010, 72.12.020, 72.12.040, 72.12.070, 72.12.090, 72.12.100, 72.12.140, 72.13.001, 72.13.010, 72.13.040, 72.13.050, 72.13.060, 72.13.080, 72.13.091, 72.13.100, 72.13.170, 72.15.010, 72.15-.020, 72.15.030, 72.15.040, 72.15.050, and 72.15.070; and declaring an emergency.

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

Sec. 1. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 1, chapter 350, Laws of 1985 and by section 8, chapter 378, Laws of 1985 and RCW 72.01.050 are each reenacted and amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school,

and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The Washington state penitentiary, the Washington state reformatory, the Washington corrections center, the McNeil Island corrections center, the ((~~Purdy~~)) Washington corrections center for women, the Cedar Creek corrections center, the Clearwater corrections center, ((~~the Firland corrections center,~~)) the Indian Ridge corrections center, the Larch corrections center, the Olympic corrections center, Pine Lodge corrections center, the special offender center, the Twin Rivers corrections center, and the ((~~proposed five hundred bed facility at~~)) Clallam Bay corrections center subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

NEW SECTION. Sec. 2. A new section is added to chapter 72.02 RCW to read as follows:

The superintendent of each institution has the powers, duties, and responsibilities specified in this section.

(1) Subject to the rules of the department, the superintendent is responsible for the supervision and management of the institution, the grounds and buildings, the subordinate officers and employees, and the prisoners committed, admitted, or transferred to the institution.

(2) Subject to the rules of the department and the director of the division of prisons or his or her designee and the state personnel board, the superintendent shall appoint all subordinate officers and employees.

(3) The superintendent shall be the custodian of all funds and valuable personal property of convicted persons as may be in their possession upon admission to the institution, or which may be sent or brought in to such persons, or earned by them while in custody, or which shall be forwarded to the superintendent on behalf of convicted persons. All such funds shall be deposited in the personal account of the convicted person and the superintendent shall have authority to disburse moneys from such person's personal account for the personal and incidental needs of the convicted person as may be deemed reasonably necessary. When convicted persons are released from the confines of the institution either on parole, transfer, or discharge,

all funds and valuable personal property in the possession of the superintendent belonging to such convicted persons shall be delivered to them. In no case shall the state of Washington, or any state officer, including state elected officials, employees, or volunteers, be liable for the loss of such personal property, except upon a showing that the loss was occasioned by the intentional act, gross negligence, or negligence of the officer, official, employee, or volunteer, and that the actions or omissions occurred while the person was performing, or in good faith purporting to perform, his or her official duties. Recovery of damages for loss of personal property while in the custody of the superintendent under this subsection shall be limited to the lesser of the market value of the item lost at the time of the loss, or the original purchase price of the item or, in the case of hand-made goods, the materials used in fabricating the item.

(4) The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall make, amend, and repeal rules for the administration, supervision, discipline, and security of the institution.

(5) When in the superintendent's opinion an emergency exists, the superintendent may promulgate temporary rules for the governance of the institution, which shall remain in effect until terminated by the director of the division of prisons or the secretary.

(6) The superintendent shall perform such other duties as may be prescribed.

NEW SECTION. Sec. 3. A new section is added to chapter 72.02 RCW to read as follows:

The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall appoint such associate superintendents as shall be deemed necessary, who shall have such qualifications as shall be determined by the secretary. In the event the superintendent is absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his or her duties, one of the associate superintendents of such institution as may be designated by the director of the division of prisons and the secretary shall act as superintendent.

Sec. 4. Section 109, chapter 136, Laws of 1981 as amended by section 2, chapter 350, Laws of 1985 and RCW 72.12.160 are each amended to read as follows:

It is the intent of the legislature that limitations be placed on the state correctional institutions at Monroe.

The following facilities at Monroe shall be subject to the inmate population limitations specified in this section.

(1) The special offender center shall house no more than one hundred forty-four inmates.

(2) The Twin Rivers corrections center shall house no more than five hundred inmates.

(3) The ((~~Monroe~~)) Washington state reformatory population shall be as determined pursuant to federal court order:
PROVIDED, That the governor may declare an emergency and increase by ten percent for a twelve-month period of time the population limitation of any of the facilities specified in this section.

Sec. 5. Section 1, chapter 171, Laws of 1971 ex. sess. and RCW 72-.02.100 are each amended to read as follows:

Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the ((~~state board of prison terms and paroles~~)) indeterminate sentencing review board, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his earnings from labor or employment while in confinement and shall be supplied by the superintendent of the state correctional facility with suitable and presentable clothing, the sum of forty dollars for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of one hundred dollars to his place of residence or the place designated in his parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: PROVIDED, That up to sixty additional dollars may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's ((~~parole~~)) community corrections officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to RCW 72.02.100 or 72-.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses.

Sec. 6. Section 2, chapter 171, Laws of 1971 ex. sess. as amended by section 80, chapter 136, Laws of 1981 and RCW 72.02.110 are each amended to read as follows:

As state, federal or other funds are available, the secretary of corrections or his designee is authorized, in his discretion, not to provide the forty dollars subsistence money or the optional sixty dollars to a person or persons released as described in RCW 72.02.100, and instead to utilize the authorization and procedure contained in this section relative to such person or persons.

Any person designated by the secretary serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant

to court commitment, who is thereafter released upon an order of parole of the ((~~state board of prison terms and paroles~~)) indeterminate sentencing review board, or is discharged from custody upon expiration of sentence, or is ordered discharged from custody by a court of appropriate jurisdiction, shall receive the sum of fifty-five dollars per week for a period of up to six weeks. The initial weekly payment shall be made to such person upon his release or parole by the superintendent of the institution. Subsequent weekly payments shall be made to such person by the ((~~probation and parole~~)) community corrections officer at the office of such ((~~probation or parole~~)) officer. In addition to the initial six weekly payments provided for in this section, a ((~~probation and parole~~)) community corrections officer and his ((~~district~~)) supervisor may, at their discretion, continue such payments up to a maximum of twenty additional weeks when they are satisfied that such person is actively seeking employment and that such payments are necessary to continue the efforts of such person to gain employment: PROVIDED, That if, at the time of release or parole, in the opinion of the superintendent funds are otherwise available to such person, with the exception of earnings from labor or employment while in confinement, such weekly sums of money or part thereof shall not be provided to such person.

When a person receiving such payments provided for in this section becomes employed, he may continue to receive payments for two weeks after the date he becomes employed but payments made after he becomes employed shall be discontinued as of the date he is first paid for such employment: PROVIDED, That no person shall receive payments for a period exceeding the twenty-six week maximum as established in this section.

The secretary of corrections may annually adjust the amount of weekly payment provided for in this section to reflect changes in the cost of living and the purchasing power of the sum set for the previous year.

Sec. 7. Section 11, chapter 214, Laws of 1959 and RCW 72.13.110 are each amended to read as follows:

There shall be ((~~a department in such institution~~)) units known as ((~~the~~)) reception and classification centers ((~~under the supervision of an associate superintendent~~)) which, subject to the rules and regulations of the department, shall be charged with the function of receiving and classifying all ((~~male~~)) persons committed or transferred to the institution, taking into consideration age, type of crime for which committed, physical condition, behavior, attitude and prospects for reformation for the purposes of confinement and treatment of ((~~male~~)) offenders convicted of offenses punishable by imprisonment ((~~in the state penitentiary or state reformatory~~)), except offenders convicted of crime and sentenced to death.

Sec. 8. Section 12, chapter 214, Laws of 1959 as last amended by section 95, chapter 136, Laws of 1981 and RCW 72.13.120 are each amended to read as follows:

Any ((~~male~~)) offender convicted of an offense punishable by imprisonment ((~~in the state penitentiary or the state reformatory~~)), except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department without designating the name of such institution, and be committed to the reception ((~~center~~)) units for classification, confinement and placement in such correctional facility under the supervision of the department as the secretary shall deem appropriate.

Sec. 9. Section 13, chapter 214, Laws of 1959 and RCW 72.13.130 are each amended to read as follows:

Nothing ((~~herein contained, however,~~)) in this chapter shall be construed to restrict or impair the power of any court or judge having jurisdiction to pronounce sentence upon a person to whom this ((~~act~~)) chapter applies, to fix the term of imprisonment and to order ((~~his~~)) commitment, according to law, nor to deny the right of any such court or judge to sentence to imprisonment; nor to deny the right of any such court or judge to suspend sentence or the execution of judgment thereon or to make any other disposition of the case pursuant to law((~~; but in case the punishment imposed be imprisonment in the state penitentiary or the state reformatory, the warrant of commitment shall commit the person convicted to the reception center established by this act for classification, confinement and placement as provided by this chapter~~)).

Sec. 10. Section 14, chapter 214, Laws of 1959 as amended by section 207, chapter 141, Laws of 1979 and RCW 72.13.140 are each amended to read as follows:

((~~The secretary shall appoint a staff for the reception center to interview, test, classify, and supervise offenders committed to the center. Such staff shall consist of such employees as the secretary shall determine to be adequate for prompt and effective classification. There shall be within the reception center a classification board, which should be composed of such members of the staff of the reception center as the secretary may require. After making a study and investigation of the facts of the cases of the persons committed to the reception center as the secretary may require, the board shall make and file in the department a certificate in writing, recommending the state correctional institution best suited to receive the offender during the term of his confinement, the type of program to be followed and the approximate length of such treatment. The state board of prison terms and paroles~~)) The indeterminate sentence review board and other state agencies shall cooperate with the department in obtaining necessary investigative materials concerning offenders committed to the reception ((~~center~~)) unit and supply the reception ((~~center~~)) unit with necessary information regarding social histories and community background.

Sec. 11. Section 15, chapter 214, Laws of 1959 as last amended by section 4, chapter 114, Laws of 1984 and RCW 72.13.150 are each amended to read as follows:

The ((~~superintendent of the correctional institution established by this chapter~~)) division of prisons shall receive all ((~~male~~)) persons convicted of a felony by the superior court and committed by the superior court to the reception ((~~center~~)) units for classification and placement in such facility as the secretary shall designate((~~, and all persons transferred thereto by the secretary from the state reformatory and state penitentiary, and other correctional facilities of the department~~)). The superintendent of these institutions shall only receive prisoners for classification and study in the institution upon presentation of certified copies of a judgment, sentence, and order of commitment of the superior court and the statement of the prosecuting attorney, along with other reports as may have been made in reference to each individual prisoner.

Sec. 12. Section 16, chapter 214, Laws of 1959 as amended by section 209, chapter 141, Laws of 1979 and RCW 72.13.160 are each amended to read as follows:

The secretary shall determine the state correctional institution in which the offender shall be confined during ((~~his~~)) the term of imprisonment. The confinement of any offender shall be governed by the laws applicable to the institution to which ((~~he~~)) the offender is certified for confinement, but ((~~his~~)) parole and discharge shall be governed by the laws applicable to the sentence imposed by the court.

Sec. 13. Section 72.08.380, chapter 28, Laws of 1959 as last amended by section 87, chapter 136, Laws of 1981 and RCW 72.08.380 are each amended to read as follows:

Whenever the superintendent of ((~~the state penitentiary~~)) an institution withholds from mailing letters written by inmates of such institution, the superintendent shall forward such letters to the secretary of corrections or the secretary's designee for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the secretary for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the secretary, retained in a separate file for two years and then destroyed.

NEW SECTION. Sec. 14. The training center general population housing units at the Washington correction center at Shelton shall be subject to an inmate population limit of no more than one hundred fifteen percent of the rated capacity. However, the governor may declare an emergency and increase by fifteen percent for a twelve-month period of time the population limitation of the training center general population housing units.

NEW SECTION. Sec. 15. RCW 72.12.160, 72.13.110, 72.13.120, 72-.13.130, 72.13.140, 72.13.150, 72.13.160, 72.15.060, and 72.08.380 are each recodified as sections in chapter 72.02 RCW.

NEW SECTION. Sec. 16. Section 22, chapter 8, Laws of 1981 and RCW 72.02.050 are each repealed.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) Section 72.08.010, chapter 28, Laws of 1959 and RCW 72.08.010;

(2) Section 72.08.020, chapter 28, Laws of 1959, section 186, chapter 141, Laws of 1979 and RCW 72.08.020;

(3) Section 72.08.040, chapter 28, Laws of 1959, section 1, chapter 56, Laws of 1969 and RCW 72.08.040;

(4) Section 72.08.045, chapter 28, Laws of 1959, section 187, chapter 141, Laws of 1979 and RCW 72.08.045;

(5) Section 72.08.050, chapter 28, Laws of 1959 and RCW 72.08.050;

(6) Section 72.08.080, chapter 28, Laws of 1959 and RCW 72.08.080;

(7) Section 72.08.090, chapter 28, Laws of 1959 and RCW 72.08.090;

(8) Section 3, chapter 9, Laws of 1965 ex. sess., section 188, chapter 141, Laws of 1979, section 85, chapter 136, Laws of 1981 and RCW 72-.08.101;

(9) Section 4, chapter 9, Laws of 1965 ex. sess., section 189, chapter 141, Laws of 1979, section 86, chapter 136, Laws of 1981 and RCW 72-.08.102;

(10) Section 5, chapter 9, Laws of 1965 ex. sess. and RCW 72.08.103;

(11) Section 72.08.120, chapter 28, Laws of 1959, section 190, chapter 141, Laws of 1979 and RCW 72.08.120;

(12) Section 72.08.130, chapter 28, Laws of 1959, section 191, chapter 141, Laws of 1979 and RCW 72.08.130; and

(13) Section 72.08.160, chapter 28, Laws of 1959 and RCW 72.08-.160.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 72.12.010, chapter 28, Laws of 1959 and RCW 72.12.010;

(2) Section 72.12.020, chapter 28, Laws of 1959, section 193, chapter 141, Laws of 1979, section 88, chapter 136, Laws of 1981 and RCW 72-.12.020;

(3) Section 72.12.040, chapter 28, Laws of 1959 and RCW 72.12.040;

(4) Section 72.12.070, chapter 28, Laws of 1959, section 195, chapter 141, Laws of 1979 and RCW 72.12.070;

(5) Section 72.12.090, chapter 28, Laws of 1959, section 196, chapter 141, Laws of 1979 and RCW 72.12.090;

(6) Section 72.12.100, chapter 28, Laws of 1959, section 197, chapter 141, Laws of 1979 and RCW 72.12.100; and

(7) Section 72.12.140, chapter 28, Laws of 1959, section 198, chapter 141, Laws of 1979, section 89, chapter 136, Laws of 1981 and RCW 72-.12.140.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) Section 90, chapter 136, Laws of 1981 and RCW 72.13.001;

(2) Section 1, chapter 214, Laws of 1959, section 199, chapter 141, Laws of 1979, section 91, chapter 136, Laws of 1981 and RCW 72.13.010;

(3) Section 4, chapter 214, Laws of 1959, section 200, chapter 141, Laws of 1979, section 92, chapter 136, Laws of 1981 and RCW 72.13.040;

(4) Section 5, chapter 214, Laws of 1959, section 201, chapter 141, Laws of 1979 and RCW 72.13.050;

(5) Section 6, chapter 214, Laws of 1959, section 202, chapter 141, Laws of 1979, section 93, chapter 136, Laws of 1981 and RCW 72.13.060;

(6) Section 8, chapter 214, Laws of 1959, section 204, chapter 141, Laws of 1979 and RCW 72.13.080;

(7) Section 2, chapter 2, Laws of 1982 2nd ex. sess., section 5, chapter 350, Laws of 1985 and RCW 72.13.091;

(8) Section 10, chapter 214, Laws of 1959, section 205, chapter 141, Laws of 1979 and RCW 72.13.100; and

(9) Section 17, chapter 214, Laws of 1959, section 210, chapter 141, Laws of 1979 and RCW 72.13.170.

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

(1) Section 1, chapter 122, Laws of 1967 ex. sess., section 211, chapter 141, Laws of 1979, section 96, chapter 136, Laws of 1981 and RCW 72-.15.010;

(2) Section 4, chapter 122, Laws of 1967 ex. sess., section 212, chapter 141, Laws of 1979 and RCW 72.15.020;

(3) Section 5, chapter 122, Laws of 1967 ex. sess., section 213, chapter 141, Laws of 1979 and RCW 72.15.030;

(4) Section 6, chapter 122, Laws of 1967 ex. sess. and RCW 72.15-.040;

(5) Section 7, chapter 122, Laws of 1967 ex. sess., section 214, chapter 141, Laws of 1979 and RCW 72.15.050; and

(6) Section 9, chapter 122, Laws of 1967 ex. sess., section 215, chapter 141, Laws of 1979 and RCW 72.15.070.

Sec. 21. Section 1, chapter 402, Laws of 1987 and section 2, chapter 456, Laws of 1987 and RCW 9.94A.120 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer ((of)) prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or

(f) Pay a fine and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of

community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7) (a) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions for a sex offense or any other felony sexual offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

After receipt of the reports, the court shall then determine whether the offender and the community will benefit from use of this special sexual offender sentencing alternative. If the court determines that both the offender and the community will benefit from use of this provision, the court shall then impose a sentence within the sentence range and, if this sentence is less than six years of confinement, the court may suspend the execution of the sentence and place the offender on community supervision for up to two years. As a condition of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;

(iii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer ((~~of~~)) prior to any change in the offender's address or employment;

(iv) Report as directed to the court and a community corrections officer;

(v) Pay a fine, accomplish some community service work, or any combination thereof; or

(vi) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

If the offender violates these sentence conditions the court may revoke the suspension and order execution of the sentence. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(b) When an offender is convicted of any felony sexual offense committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its

own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer ((of)) prior to any change in the offender's address or employment;

(iii) Report as directed to the court and a community corrections officer;

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer ((~~of~~)) prior to any change in the offender's address or employment;

(iii) Report as directed to the court and a community corrections officer;

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

(8) 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, 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.

(15) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision.

(16) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release.

Sec. 22. Section 17, chapter 137, Laws of 1981 and RCW 9.94A.170 are each amended to read as follows:

(1) A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented him or herself from ((~~supervision~~)) confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.

(2) A term of supervision ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3) Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason. However, if an offender is detained pursuant to RCW 9.94A.195 and is later found not to have violated a condition or requirement of supervision, time spent in confinement due to such detention shall not toll the period of supervision.

(4) For confinement sentences, the date for the tolling of the sentence shall be established by the entity responsible for the confinement. For sentences involving supervision, the date for the tolling of the sentence shall be established by the court, based on reports from the entity responsible for the supervision.

*Sec. 22 was vetoed, see message at end of chapter.

Sec. 23. Section 22, chapter 209, Laws of 1984 and RCW 9.94A.383 are each amended to read as follows:

On all sentences of confinement for one year or less, the court may impose up to one year of community supervision. ((~~For confinement sentences, unless otherwise ordered by the court, the period of community supervision begins at the date of release from confinement. For nonconfinement sentences, the period of community supervision begins at the date of entry of the judgment and sentence.~~)) An offender shall be on community supervision as of the date of sentencing. However, during the time for which the offender is in total or partial confinement pursuant to the sentence or a violation of the sentence, the period of community supervision shall toll.

Sec. 24. Section 11, chapter 115, Laws of 1983 as last amended by section 5, chapter 456, Laws of 1987 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 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 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. 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)(e) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under 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 criminal history in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any 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 concurrently with any felony 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 current sentence expressly orders that they be served 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, 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. Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months.

NEW SECTION. Sec. 25. Increased sanctions authorized by sections 21 through 24 of this act are applicable only to those persons committing offenses after the effective date of this section.

NEW SECTION. Sec. 26. Sections 21 through 24 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. 27. 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 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 21, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 21, 1988.

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

"I am returning herewith, without my approval as to section 22, Substitute House Bill No. 1271 entitled:

"AN ACT Relating to the department of corrections."

Section 22 of this bill clarifies language relating to the tolling of sentences when offenders have absented themselves from supervision or are confined for violations of sentence conditions. Similar language is contained in Engrossed Substitute House Bill No. 1424, section 9, which establishes a program of community placement. The language of that bill is more comprehensive and includes elements of the newly authorized program. In order to avoid confusion, I have vetoed section 22 of this bill.

With the exception of section 22, Substitute House Bill No. 1271 is approved."

CHAPTER 144

[Engrossed Substitute Senate Bill No. 6305]
CHILDHOOD SEXUAL ABUSE—STATUTE OF LIMITATIONS

AN ACT Relating to the statute of limitations for sexual abuse or exploitation of a child; amending RCW 4.16.350; adding a new section to chapter 4.16 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 4.16 RCW to read as follows:

(1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within three years of the act alleged to have caused the injury or condition, or three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act, whichever period expires later.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed.

Sec. 2. Section 1, chapter 80, Laws of 1971 as last amended by section 1401, chapter 212, Laws of 1987 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 or 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 of eighteen years, and such imputed knowledge shall operate to bar the claim of such minor to the same extent that the claim of an adult would be barred under this section. Any action not commenced in accordance with this section shall be barred.

For purposes of this section, with respect to care provided after June 25, 1976, and before August 1, 1986, the knowledge of a custodial parent or guardian shall be imputed as of April 29, 1987, to persons under the age of eighteen years.

This section does not apply to a civil action based on intentional conduct brought against those individuals or entities specified in this section by a person for recovery of damages for injury occurring as a result of childhood sexual abuse as defined in section 1(5) of this act.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act apply to all causes of action commenced on or after the effective date of this act, regardless of when the cause of action may have arisen. To this extent, sections 1 and 2 of this act apply retrospectively.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 145

[Substitute House Bill No. 1333]
SEXUAL OFFENSES

AN ACT Relating to creating sexual offenses with age differentials between victims and perpetrators; amending RCW 9A.44.010, 9A.44.100, 9.94A.440, 9A.46.060, 9A.88.030, 13.40.020, 13.40.110, 70.125.030, and 9A.44.030; reenacting and amending RCW 9.94A.030, 9.94A.320, and 9A.04.080; adding new sections to chapter 9A.44 RCW; creating new sections; repealing RCW 9A.44.070, 9A.44.080, and 9A.44.090; prescribing penalties; and providing an effective date.

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

Sec. 1. Section 1, chapter 14, Laws of 1975 1st ex. sess. as amended by section 1, chapter 123, Laws of 1981 and RCW 9A.44.010 are each amended to read as follows:

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "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.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(((~~3~~))) (4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause;

((~~(4)~~)) (5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

((~~(5)~~)) (6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped;

((~~(6)~~)) (7) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse;

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

(b) A person who in the course of his or her employment supervises minors.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

NEW SECTION. Sec. 2. RAPE OF A CHILD IN THE FIRST DEGREE. (1) A person is guilty of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least twenty-four months older than the victim.

(2) Rape of a child in the first degree is a class A felony.

NEW SECTION. Sec. 3. RAPE OF A CHILD IN THE SECOND DEGREE. (1) A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Rape of a child in the second degree is a class B felony.

NEW SECTION. Sec. 4. RAPE OF A CHILD IN THE THIRD DEGREE. (1) A person is guilty of rape of a child in the third degree when the person has sexual intercourse with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

(2) Rape of a child in the third degree is a class C felony.

NEW SECTION. Sec. 5. CHILD MOLESTATION IN THE FIRST DEGREE. (1) A person is guilty of child molestation in the first degree when the person has sexual contact with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the first degree is a class B felony.

NEW SECTION. Sec. 6. CHILD MOLESTATION IN THE SECOND DEGREE. (1) A person is guilty of child molestation in the second degree when the person has sexual contact with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the second degree is a class B felony.

NEW SECTION. Sec. 7. CHILD MOLESTATION IN THE THIRD DEGREE. (1) A person is guilty of child molestation in the third degree when the person has sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

(2) Child molestation in the third degree is a class C felony.

NEW SECTION. Sec. 8. SEXUAL MISCONDUCT WITH A MINOR IN THE FIRST DEGREE. (1) A person is guilty of sexual misconduct with a minor in the first degree when the person has sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in sexual intercourse with the victim.

(2) Sexual misconduct with a minor in the first degree is a class C felony.

NEW SECTION. Sec. 9. SEXUAL MISCONDUCT WITH A MINOR IN THE SECOND DEGREE. (1) A person is guilty of sexual misconduct with a minor in the second degree when the person has sexual contact with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in sexual contact with the victim.

(2) Sexual misconduct with a minor in the second degree is a gross misdemeanor.

Sec. 10. Section 9A.88.100, chapter 260, Laws of 1975 1st ex. sess. as amended by section 1, chapter 131, Laws of 1986 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.

Sec. 11. Section 3, chapter 137, Laws of 1981 as last amended by section 3, chapter 187, Laws of 1987, by section 1, chapter 456, Laws of 1987, and by section 1, chapter 458, Laws of 1987 and RCW 9.94A.030 are each reenacted and amended to read as follows:

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

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(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). 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.

(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 in juvenile court if: (i) The conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(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:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(12) "Escape" means:

(a) 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); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(13) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(14) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(15) (a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

(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.

(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 other unit of government, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release as defined in this section.

(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.

(20) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61-.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(21) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(22) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(23) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A-.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(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.

(25) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(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, child molestation in the first degree, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in subsection (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 (26)(a) or (b) of this section.

(27) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

Sec. 12. Section 3, chapter 115, Laws of 1983 as last amended by section 4, chapter 187, Laws of 1987 and by section 1, chapter 224, Laws of 1987 and RCW 9.94A.320 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW 9A.36.011)
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (section 2 of this 1988 act) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) ((~~Statutory Rape 1 (RCW 9A.44.070)~~))) Explosive devices prohibited (RCW 70.74.180) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I–V to someone under 18 and 3 years junior (RCW 69.50.406) Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a)) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
VIII	Arson 1 (RCW 9A.48.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (section 3 of this 1988 act) Child Molestation 1 (section 5 of this 1988 act) 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))
Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b))
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)

VI Bribery (RCW 9A.68.010)
Manslaughter 2 (RCW 9A.32.070)
Child Molestation 2 (section 6 of this 1988 act)
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)((~~, (c), and (d)~~)))
Incest 1 (RCW 9A.64.020(1))
Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))
Intimidating a Judge (RCW 9A.72.160)

V Criminal Mistreatment 1 (RCW 9A.42.020)
Rape 3 (RCW 9A.44.060)
Kidnapping 2 (RCW 9A.40.030)
Extortion 1 (RCW 9A.56.120)
Incest 2 (RCW 9A.64.020(2))
Perjury 1 (RCW 9A.72.020)
Extortionate Extension of Credit (RCW 9A.82.020)
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Rendering Criminal Assistance 1 (RCW 9A.76.070)

IV Robbery 2 (RCW 9A.56.210)
Assault 2 (RCW 9A.36.021)

Escape 1 (RCW 9A.76.110)
Arson 2 (RCW 9A.48.030)
Rape of a Child 3 (section 4 of this 1988 act)
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 Criminal mistreatment 2 (RCW 9A.42.030)
((~~Statutory Rape 3 (RCW 9A.44.090)~~))
Sexual Misconduct with a Minor 1 (section 8 of this 1988 act)
Child Molestation 3 (section 7 of this 1988 act)
Extortion 2 (RCW 9A.56.130)
Unlawful Imprisonment (RCW 9A.40.040)
Assault 3 (RCW 9A.36.031)
Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
Harassment (RCW 9A.46.020)
Promoting Prostitution 2 (RCW 9A.88.080)
Wilful Failure to Return from Work Release (RCW 72.65.070)
Introducing Contraband 2 (RCW 9A.76.150)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Escape 2 (RCW 9A.76.120)
Perjury 2 (RCW 9A.72.030)
Intimidating a Public Servant (RCW 9A.76.180)
Tampering with a Witness (RCW 9A.72.120)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
Theft of livestock 1 (RCW 9A.56.080)

II Malicious Mischief 1 (RCW 9A.48.070)
Possession of Stolen Property 1 (RCW 9A.56.150)

Theft 1 (RCW 9A.56.030)
Theft of Livestock 2 (RCW 9A.56.080)
Burglary 2 (RCW 9A.52.030)
Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
Computer Trespass 1 (RCW 9A.52.110)

I Theft 2 (RCW 9A.56.040)
Possession of Stolen Property 2 (RCW 9A.56.160)
Forgery (RCW 9A.60.020)
Taking Motor Vehicle Without Permission (RCW 9A.56.070)
Vehicle Prowl 1 (RCW 9A.52.095)
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
Malicious Mischief 2 (RCW 9A.48.080)
Reckless Burning 1 (RCW 9A.48.040)
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
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. 13. Section 15, chapter 115, Laws of 1983 as amended by section 30, chapter 257, Laws of 1986 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 below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS

Aggravated Murder
1st Degree Murder
2nd Degree Murder
1st Degree Kidnaping
1st Degree Assault
1st Degree Rape
1st Degree Robbery
((~~1st Degree Statutory Rape~~))
1st Degree Rape of a Child
1st Degree Arson
2nd Degree Kidnaping
2nd Degree Assault
2nd Degree Rape
2nd Degree Robbery
1st Degree Burglary

1st Degree Manslaughter
2nd Degree Manslaughter
1st Degree Extortion
Indecent Liberties
((~~2nd Degree Statutory Rape~~))
Incest
2nd Degree Rape of a Child
Vehicular Homicide
Vehicular Assault
3rd Degree Rape
((~~3rd Degree Statutory Rape~~))
3rd Degree Rape of a Child
1st Degree Child Molestation
2nd Degree Child Molestation
3rd Degree Child Molestation
2nd Degree Extortion
1st Degree Promoting Prostitution
Intimidating a Juror
Communication with a Minor
Intimidating a Witness
Intimidating a Public Servant
Bomb Threat (if against person)
3rd Degree Assault
Unlawful Imprisonment
Promoting a Suicide Attempt
Riot (if against person)

CRIMES AGAINST PROPERTY/OTHER CRIMES

2nd Degree Arson
1st Degree Escape
2nd Degree Burglary
1st Degree Theft
1st Degree Perjury
1st Degree Introducing Contraband
1st Degree Possession of Stolen Property
Bribery
Bribing a Witness
Bribe received by a Witness
Bomb Threat (if against property)
1st Degree Malicious Mischief
2nd Degree Theft
2nd Degree Escape
2nd Degree Introducing Contraband
2nd Degree Possession of Stolen Property

2nd Degree Malicious Mischief
1st Degree Reckless Burning
Taking a Motor Vehicle without Authorization
Forgery
2nd Degree Perjury
2nd Degree Promoting Prostitution
Tampering with a Witness
Trading in Public Office
Trading in Special Influence
Receiving/Granting Unlawful Compensation
Bigamy
Eluding a Pursuing Police Vehicle
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. 14. Section 1, chapter 85, Laws of 1986 and section 13, chapter 257, Laws of 1986 and RCW 9A.04.080 are each reenacted and amended to read as follows:

(1) 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 violations of class C felonies under chapter 74.09 RCW, within five 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, five, 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~~)) criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Arson if a death results.

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results.

(c) The following offenses shall not be prosecuted more than seven years after their commission: Rape of a child in the first or second degree or child molestation in the first or second degree.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) No other felony may be prosecuted more than three years after its commission.

(h) No gross misdemeanor may be prosecuted more than two years after its commission.

(i) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is

set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

Sec. 15. Section 6, chapter 288, Laws of 1985 and RCW 9A.46.060 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

(1) Harassment (RCW 9A.46.020);

(2) Malicious harassment (RCW 9A.36.080);

(3) Telephone harassment (RCW 9.61.230);

(4) Assault in the first degree (RCW ((~~9A.36.010~~)) 9A.36.011);

(5) Assault in the second degree (RCW ((~~9A.36.020~~)) 9A.36.021);

(6) Simple assault (RCW ((~~9A.36.040~~)) 9A.36.041);

(7) Reckless endangerment (RCW 9A.36.050);

(8) Extortion in the first degree (RCW 9A.56.120);

(9) Extortion in the second degree (RCW 9A.56.130);

(10) Coercion (RCW 9A.36.070);

(11) Burglary in the first degree (RCW 9A.52.020);

(12) Burglary in the second degree (RCW 9A.52.030);

(13) Criminal trespass in the first degree (RCW 9A.52.070);

(14) Criminal trespass in the second degree (RCW 9A.52.080);

(15) Malicious mischief in the first degree (RCW 9A.48.070);

(16) Malicious mischief in the second degree (RCW 9A.48.080);

(17) Malicious mischief in the third degree (RCW 9A.48.090);

(18) Kidnapping in the first degree (RCW 9A.40.020);

(19) Kidnapping in the second degree (RCW 9A.40.030);

(20) Unlawful imprisonment (RCW 9A.40.040);

(21) Rape in the first degree (RCW 9A.44.040);

(22) Rape in the second degree (RCW 9A.44.050);

(23) Rape in the third degree (RCW 9A.44.060);

(24) Indecent liberties (RCW 9A.44.100);

(25) ((~~Statutory~~)) Rape of a child in the first degree (((~~RCW 9A.44.070~~))) (section 2 of this 1988 act);

(26) ((~~Statutory~~)) Rape of a child in the second degree (((~~RCW 9A.44.080~~))) (section 3 of this 1988 act); ((~~and~~))

(27) ((~~Statutory~~)) Rape of a child in the third degree (((~~RCW 9A.44.090~~))) (section 4 of this 1988 act);

(28) Child molestation in the first degree (section 5 of this 1988 act);

(29) Child molestation in the second degree (section 6 of this 1988 act); and

(30) Child molestation in the third degree (section 7 of this 1988 act).

Sec. 16. Section 9A.88.030, chapter 260, Laws of 1975 1st ex. sess. as amended by section 15, chapter 244, Laws of 1979 ex. sess. and RCW 9A.88.030 are each amended to read as follows:

(1) A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) For purposes of this section, "sexual conduct" means "sexual intercourse" ((~~as defined in RCW 9A.44.010(1)~~)) or "sexual contact," both as defined in chapter 9A.44 RCW ((~~9A.44.100(2)~~)).

(3) Prostitution is a misdemeanor.

Sec. 17. Section 56, chapter 291, Laws of 1977 ex. sess. as last amended by section 7, chapter 191, Laws of 1983 and RCW 13.40.020 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree or rape in the second degree; or

(c) Assault in the second degree, extortion in the first degree, ((~~indecent liberties~~)) child molestation in the first or second degree, rape of a child in the second degree, kidnapping in the second degree, robbery in the second degree, or burglary in the second degree, ((~~or statutory rape in the second degree,~~)) where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth. A community supervision order for a single offense may be for a period of up to one year and include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(c) Attendance of information classes;

(d) Counseling; or

(e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include confinement;

(4) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(5) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(6) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(7) "Department" means the department of social and health services;

(8) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender or any other person or entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.04.040, as now or hereafter amended, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(9) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(10) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

(11) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(12) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(13) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(14) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony and one misdemeanor or gross misdemeanor;

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; rape in the

second degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; ((~~statutory~~)) rape of a child in the second degree; vehicular homicide; or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

(15) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(16) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(17) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, and lost wages resulting from physical injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(18) "Secretary" means the secretary of the department of social and health services;

(19) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(20) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(21) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration.

Sec. 18. Section 65, chapter 291, Laws of 1977 ex. sess. as amended by section 63, chapter 155, Laws of 1979 and RCW 13.40.110 are each amended to read as follows:

(1) The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction. Unless waived by the court, the parties, and their counsel, a decline hearing shall be held where:

(a) The respondent is sixteen or seventeen years of age and the information alleges a class A felony or an attempt to commit a class A felony; or

(b) The respondent is seventeen years of age and the information alleges assault in the second degree, extortion in the first degree, indecent

liberties, rape of a child in the second degree, child molestation in the first or second degree, kidnaping in the second degree, rape in the second degree, or robbery in the second degree.

(2) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(3) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

Sec. 19. Section 3, chapter 219, Laws of 1979 ex. sess. and RCW 70-.125.030 are each amended to read as follows:

As used in this chapter and unless the context indicates otherwise:

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

(2) "Law enforcement agencies" means police and sheriff's departments of this state.

(3) "Personal representative" means a friend, relative, attorney, or employee or volunteer from a rape crisis center.

(4) "Rape crisis center" means a community-based social service agency which provides services to victims of sexual assault.

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

(6) "Sexual assault" means one or more of the following:

(a) Rape or ((~~statutory~~)) rape of a child;

(b) Assault with intent to commit rape;

(c) Incest or indecent liberties; or

(d) An attempt to commit any of the aforementioned offenses.

(7) "Victim" means any person who suffers physical and/or mental anguish as a proximate result of a sexual assault.

Sec. 20. Section 3, chapter 14, Laws of 1975 1st ex. sess. and RCW 9A.44.030 are each amended to read as follows:

(1) In any prosecution under this chapter in which lack of consent is based solely upon the victim's mental incapacity or upon the victim's being physically helpless, 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 that the victim was not mentally incapacitated and/or physically helpless.

(2) In any prosecution under this chapter in which the offense or degree of the offense depends on the victim's age, it is no defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be: 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 ((~~older~~)) the age identified in subsection (3) of this section based upon declarations as to age by the alleged victim.

(3) The defense afforded by subsection (2) of this section requires that for the following defendants, the reasonable belief be as indicated:

(a) For a defendant charged with rape of a child in the first degree, that the victim was at least twelve, or was less than twenty-four months younger than the defendant;

(b) For a defendant charged with rape of a child in the second degree, that the victim was at least fourteen, or was less than thirty-six months younger than the defendant;

(c) For a defendant charged with rape of a child in the third degree, that the victim was at least sixteen, or was less than forty-eight months younger than the defendant;

(d) For a defendant charged with sexual misconduct with a minor in the first degree, that the victim was at least eighteen, or was less than sixty months younger than the defendant;

(e) For a defendant charged with child molestation in the first degree, that the victim was at least twelve, or was less than thirty-six months younger than the defendant;

(f) For a defendant charged with child molestation in the second degree, that the victim was at least fourteen, or was less than thirty-six months younger than the defendant;

(g) For a defendant charged with child molestation in the third degree, that the victim was at least sixteen, or was less than thirty-six months younger than the defendant;

(h) For a defendant charged with sexual misconduct with a minor in the second degree, that the victim was at least eighteen, or was less than sixty months younger than the defendant.

NEW SECTION. Sec. 21. The State of Washington Juvenile Disposition Sentencing Standards, Schedule A, is amended to include the following:

JUVENILE DISPOSITION OFFENSE CATEGORY	DJR CODE	DESCRIPTION (RCW CITE)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY OR SOLICITATION
A-	9A44B70	Rape of a child, 1 Degree	B+
C+	9A44B80	Rape of a child, 2 Degree	D+
B+	9A44101	Child Molestation, 1 Degree	C+
B+	9A44102	Child Molestation, 2 Degree	C+

NEW SECTION. Sec. 22. Section captions as used in this chapter do not constitute any part of the law.

NEW SECTION. Sec. 23. Sections 2 through 9 and 22 of this act are each added to chapter 9A.44 RCW.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

(1) Section 7, chapter 14, Laws of 1975 1st ex. sess., section 4, chapter 244, Laws of 1979 ex. sess., section 31, chapter 257, Laws of 1986 and RCW 9A.44.070;

(2) Section 8, chapter 14, Laws of 1975 1st ex. sess., section 5, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.080; and

(3) Section 9, chapter 14, Laws of 1975 1st ex. sess., section 6, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.090.

NEW SECTION. Sec. 25. This act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 1, 1988, and shall apply only to offenses committed on or after July 1, 1988.

NEW SECTION. Sec. 26. This act shall take effect July 1, 1988.

Passed the House March 9, 1988.
Passed the Senate March 8, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 146

[Substitute House Bill No. 1302]

SEXUAL OFFENSES INVOLVING DEVELOPMENTALLY DISABLED VICTIMS—PATRONIZING A PROSTITUTE

AN ACT Relating to sexual offenses; amending RCW 9A.44.050, 9A.44.100, and 9A.44-.010; adding a new section to chapter 9A.88 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 5, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 118, Laws of 1983 and RCW 9A.44.050 are each amended to read as follows:

(1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

(a) By forcible compulsion; ((or))

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim.

(2) Rape in the second degree is a class B felony.

Sec. 2. Section 9A.88.100, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 10, chapter ... (SHB 1333), Laws of 1988 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 incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless; or

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim.

(2) Indecent liberties is a class B felony.

Sec. 3. Section 1, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 1, chapter ... (SHB 1333), Laws of 1988 and RCW 9A.44.010 are each amended to read as follows:

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "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.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause((;)).

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act((;)).

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped((;)).

(7) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse((;)).

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

(b) A person who in the course of his or her employment supervises minors.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

(10) "Developmentally disabled," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person as defined in RCW 71.20.016.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled persons at the facility.

NEW SECTION. Sec. 4. A new section is added to chapter 9A.88 RCW to read as follows:

Patronizing a prostitute. (1) A person is guilty of patronizing a prostitute if:

(a) Pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or

(b) He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person will engage in sexual conduct with him or her; or

(c) He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.

(2) For purposes of this section, "sexual conduct" has the meaning given in RCW 9A.88.030.

(3) Patronizing a prostitute is a misdemeanor.

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. 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 immediately. The remainder of this act shall take effect July 1, 1988.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 147

[Substitute House Bill No. 1377]
PRECURSOR DRUGS—CRIMINAL PENALTIES

AN ACT Relating to certain substances that may be used to produce controlled substances; adding a new chapter to Title 69 RCW; providing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) Beginning July 1, 1988, a report to the state board of pharmacy shall be submitted in accordance with this chapter by a manufacturer, retailer, or other person who sells, transfers, or otherwise furnishes to any person in this state any of the following substances or their salts or isomers:

(a) Anthranilic acid;
(b) Barbituric acid;
(c) Chlorephedrine;
(d) Diethyl malonate;
(e) D-lysergic acid;
(f) Ephedrine;
(g) Ergotamine tartrate;
(h) Ethylamine;
(i) Ethyl malonate;
(j) Ethylephedrine;
(k) Lead acetate;
(l) Malonic acid;
(m) Methylamine;
(n) Methylformanide;
(o) Methylephedrine;
(p) Methylpseudoephedrine;
(q) N-acetylanthranilic acid;
(r) Norpseudoephedrine;
(s) Phenylacetic acid;
(t) Phenylpropanolamine;
(u) Piperidine;
(v) Pseudoephedrine; and
(w) Pyrrolidine.

(2) The state board of pharmacy shall administer this chapter and may, by rule adopted pursuant to chapter 34.04 RCW, add a substance to or remove a substance from the list in subsection (1) of this section. In determining whether to add or remove a substance, the board shall consider the following:

(a) The likelihood that the substance is useable as a precursor in the illegal production of a controlled substance as defined in chapter 69.50 RCW;

(b) The availability of the substance;

(c) The relative appropriateness of including the substance in this chapter or in chapter 69.50 RCW; and

(d) The extent and nature of legitimate uses for the substance.

(3) On or before December 1 of each year, the board shall inform the committees of reference of the legislature of the substances added, deleted, or changed in subsection (1) of this section and include an explanation of these actions.

(4) (a) Beginning on July 1, 1988, any manufacturer, wholesaler, retailer, or other person shall, before selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section to a person in this state, require proper identification from the purchaser.

(b) For the purposes of this subsection, "proper identification" means, in the case of a face-to-face purchase, a motor vehicle operator's license or other official state-issued identification of the purchaser containing a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from any business for which any substance specified in subsection (1) of this section is being furnished, which includes the business license number and address of the business, a description of how the substance is to be used, and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser. The state board of pharmacy shall provide by rule for the proper identification of purchasers in other than face-to-face purchases.

(c) A violation of this subsection is a misdemeanor.

(5) Beginning on July 1, 1988, any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subsection (1) of this section to a person in this state shall, not less than twenty-one days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (4) of this section to the state board of pharmacy. However, the state board of pharmacy may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the

furnisher and the recipient involving the same substance if the state board of pharmacy determines that either of the following exist:

(a) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance; or

(b) The recipient has established a record of using the substance for lawful purposes.

(6) Any person specified in subsection (5) of this section who does not submit a report as required by that subsection is guilty of a gross misdemeanor.

NEW SECTION. Sec. 2. (1) Beginning on July 1, 1988, any manufacturer, wholesaler, retailer, or other person subject to any other reporting requirements in this chapter, who receives from a source outside of this state any substance specified in section 1(1) of this act, shall submit a report of such transaction to the state board of pharmacy under rules adopted by the board.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act do not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a practitioner, as defined in chapter 69-.41 RCW;

(2) Any practitioner who administers or furnishes a substance to his or her patients;

(3) Any manufacturer or wholesaler licensed by the state board of pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy or practitioner;

(4) Any sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in section 1(1) of this act, if such drug or cosmetic is lawfully sold, transferred, or furnished, over the counter without a prescription under chapter 69.04 or 69.41 RCW.

NEW SECTION. Sec. 4. (1) The state board of pharmacy shall provide a common reporting form for the substances in section 1 of this act that contains at least the following information:

(a) Name of the substance;

(b) Quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under subsection (1)(e) of this section may be computer-generated in accordance with rules adopted by the state board of pharmacy.

NEW SECTION. Sec. 5. The state board of pharmacy may adopt all rules necessary to carry out this chapter.

NEW SECTION. Sec. 6. (1) The theft or loss of any substance under section 1 of this act discovered by any person regulated by this chapter shall be reported to the state board of pharmacy within seven days after such discovery.

(2) Any difference between the quantity of any substance under section 1 of this act received and the quantity shipped shall be reported to the state board of pharmacy within seven days of the receipt of actual knowledge of the discrepancy. When applicable, any report made pursuant to this subsection shall also include the name of any common carrier or person who transported the substance and the date of shipment of the substance.

NEW SECTION. Sec. 7. (1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in section 1 of this act with knowledge or the intent that the recipient will use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW.

(2) Any person who receives any substance listed in section 1 of this act with intent to use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW.

NEW SECTION. Sec. 8. It is unlawful for any person knowingly to make a false statement in connection with any report or record required under this chapter. A violation of this section is a class C felony under chapter 9A.20 RCW.

NEW SECTION. Sec. 9. (1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in section 1 of this act to a person in this state or who receives from a source outside of the state any substance specified in section 1 of this act shall obtain a permit for the conduct of that business from the state board of pharmacy. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in section 1(1) of this act, if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) Applications for permits shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The board may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the board.

(5) A permit granted under this chapter may be renewed on a date to be determined by the board, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee.

(6) Permit fees charged by the board shall not exceed the costs incurred by the board in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in section 1 of this act without a required permit, is a gross misdemeanor.

NEW SECTION. Sec. 10. The board shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the board of pharmacy.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act shall constitute a new chapter in Title 69 RCW.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 9, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 148

[House Bill No. 1482]

JUVENILE DRIVING PRIVILEGES—ALCOHOL OR DRUG VIOLATIONS

AN ACT Relating to alcohol or drug violations by juveniles; amending RCW 46.04.480; reenacting and amending RCW 46.20.311; adding a new section to chapter 13.40 RCW; adding a new section to chapter 66.44 RCW; adding a new section to chapter 69.41 RCW; adding a new section to chapter 69.50 RCW; adding a new section to chapter 69.52 RCW; adding a new section to chapter 46.20 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 many persons under the age of eighteen unlawfully use intoxicating liquor and controlled substances. The use of these substances by juveniles can cause serious damage to their physical, mental, and emotional well-being, and in some instances results in life-long disabilities.

The legislature also finds that juveniles who unlawfully use alcohol and controlled substances frequently operate motor vehicles while under the influence of and impaired by alcohol or drugs. Juveniles who use these substances often have seriously impaired judgment and motor skills and pose an unduly high risk of causing injury or death to themselves or other persons on the public highways.

The legislature also finds that juveniles will be deterred from the unlawful use of alcohol and controlled substances if their driving privileges are suspended or revoked for using illegal drugs or alcohol.

NEW SECTION. Sec. 2. A new section is added to chapter 13.40 RCW to read as follows:

(1) (a) If a juvenile under eighteen years of age, but thirteen or over, is found by juvenile court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(b) Except as otherwise provided in (c) of this subsection, a court, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(c) The court shall not notify the department that the juvenile's driving privileges should be reinstated for a period of ninety days after the entry of the judgment if it is the first order issued with respect to the juvenile under section 7 of this act, or for a period of one year after the issuance of the order if it is the second or subsequent such order issued with respect to the juvenile.

(2) (a) If a juvenile enters into a diversion agreement with a diversion unit pursuant to RCW 13.40.080 concerning an offense that is a violation of

chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion unit shall notify the department of licensing within twenty-four hours after the diversion agreement is signed.

(b) If a diversion unit has notified the department pursuant to (a) of this subsection, the diversion unit shall notify the department of licensing when the juvenile has completed the agreement.

NEW SECTION. Sec. 3. A new section is added to chapter 66.44 RCW to read as follows:

(1) If a juvenile under eighteen years of age, but thirteen or over, is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, the court, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of this chapter, may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) The court shall not notify the department that the juvenile's driving privileges should be reinstated for a period of ninety days after the entry of the judgment if it is the first revocation with respect to the juvenile under this section or section 7 of this act, or for a period of one year after the issuance of the order if it is the second or subsequent such revocation issued with respect to the juvenile.

NEW SECTION. Sec. 4. A new section is added to chapter 69.41 RCW to read as follows:

(1) If a juvenile under eighteen years of age, but thirteen or over, is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, the court, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of this chapter, may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) The court shall not notify the department that the juvenile's driving privileges should be reinstated for a period of ninety days after the entry of the judgment if it is the first revocation with respect to the juvenile under this section or section 7 of this act, or for a period of one year after the issuance of the order if it is the second or subsequent such revocation issued with respect to the juvenile.

NEW SECTION. Sec. 5. A new section is added to chapter 69.50 RCW to read as follows:

(1) If a juvenile under eighteen years of age, but thirteen or over, is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, the court, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of this chapter, may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) The court shall not notify the department that the juvenile's privilege to drive should be reinstated for a period of ninety days after the entry of the judgment if it is the first revocation issued with respect to the juvenile under this section or section 7 of this act, or for a period of one year after the entry of the judgment if it is the second or subsequent such revocation issued with respect to the juvenile.

NEW SECTION. Sec. 6. A new section is added to chapter 69.52 RCW to read as follows:

(1) If a juvenile under eighteen years of age, but thirteen or over, is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, the court, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of this chapter, may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) The court shall not notify the department that the juvenile's privilege to drive should be reinstated for a period of ninety days after the entry of the judgment if it is the first revocation issued with respect to the juvenile under this section or section 7 of this act, or for a period of one year after the entry of the judgment if it is the second or subsequent such revocation issued with respect to the juvenile.

NEW SECTION. Sec. 7. A new section is added to chapter 46.20 RCW to read as follows:

(1) In addition to any other authority to revoke driving privileges under this chapter, the department shall revoke all driving privileges of a juvenile when the department receives notice from a court pursuant to section 2, 3, 4, 5, or 6 of this act or from a diversion unit pursuant to section 2 of this act. The revocation shall be imposed without hearing.

(2) The driving privileges of the juvenile revoked under subsection (1) of this section shall be revoked in the following manner:

(a) Upon receipt of the first notice, the department shall impose a revocation for one year, or until the juvenile reaches seventeen years of age, whichever is longer.

(b) Upon receipt of a second or subsequent notice, the department shall impose a revocation for one year or until the juvenile reaches eighteen years of age, whichever is longer.

(3) If the department receives notice from a court that the juvenile's privilege to drive should be reinstated, the department shall immediately reinstate any driving privileges that have been revoked under this section.

(4) If the department receives notice pursuant to section 2(2)(b) of this act from a diversion unit that a juvenile has completed a diversion agreement for which the juvenile's driving privileges were revoked, the department shall reinstate any driving privileges revoked under this section. The department shall not reinstate driving privileges earlier than ninety days after the date the juvenile entered into a diversion agreement for the first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW and not earlier than one year after the date the juvenile entered into a diversion agreement for a second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

Sec. 8. Section 46.04.480, chapter 12, Laws of 1961 as last amended by section 1, chapter 407, Laws of 1985 and RCW 46.04.480 are each amended to read as follows:

"Revoke," in all its forms, means the invalidation for a period of one calendar year and thereafter until reissue: PROVIDED, That under the provisions of RCW 46.20.285, 46.20.311, section 7 of this act, or 46.61.515 and chapter 46.65 RCW the invalidation may last for a period other than one calendar year.

Sec. 9. Section 27, chapter 121, Laws of 1965 ex. sess. as last amended by section 1, chapter 211, Laws of 1985 and by section 4, chapter 407, Laws of 1985 and RCW 46.20.311 are each reenacted and amended to read as follows:

(1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342 or 46.61.515. Whenever the license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291, the suspension shall remain in effect and the department shall not issue to the person any new, duplicate, or renewal license until the person pays a reinstatement fee of twenty dollars and gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the reinstatement fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date

on which the revoked license was surrendered to and received by the department; (b) after the expiration of the applicable revocation period provided by RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for persons convicted of vehicular homicide; (d) after the expiration of one year in cases of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; ((or)) (e) after the expiration of two years in cases of revocation for the second refusal within five years to submit to a chemical test under RCW 46.20.308; or (f) after the expiration of the applicable revocation period provided by section 7 of this act. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reinstatement fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reinstatement fee shall be fifty dollars. Except for a revocation under section 7 of this act, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under section 7 of this act, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways. A resident without a license or permit whose license or permit was revoked under RCW 46.20.308(6) shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020, the suspension shall remain in effect and the department shall not issue to the person any new or renewal license until the person pays a reinstatement fee of twenty dollars. If the suspension is the result of a violation of the laws of another state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reinstatement fee shall be fifty dollars.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 149

[Engrossed House Bill No. 1272]

CORRECTION DEPARTMENT EMPLOYEES—ASSAULT BENEFITS

AN ACT Relating to department of corrections employee assault benefits; amending RCW 72.09.240; and repealing RCW 72.09.250.

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

Sec. 1. Section 9, chapter 246, Laws of 1984 and RCW 72.09.240 are each amended to read as follows:

(1) In recognition of prison overcrowding and the hazardous nature of employment in state correctional institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the department of corrections for some of their costs attributable to their being the victims of ((~~inmate~~)) offender assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the secretary of corrections, or the secretary's designee, finds that each of the following has occurred:

(a) An ((~~inmate~~)) offender has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(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.

(3) 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.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the secretary, or the secretary's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the secretary, or the secretary's designee, believes are justified.

(7) 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.

(8) All reimbursement payments required to be made to employees under this section shall be made by the department of corrections. 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.

(9) 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.

(10) For the purposes of this section, "offender" means: (a) inmate as defined in RCW 72.09.020, (b) offender as defined in RCW 9.94A.030, and (c) any other person in the custody of or subject to the jurisdiction of the department of corrections.

NEW SECTION. Sec. 2. Section 19, chapter 284, Laws of 1984 and RCW 72.09.250 are each repealed.

Passed the House January 29, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 150

[Substitute House Bill No. 1445]

DRUG-RELATED ACTIVITIES—LANDLORD-TENANT REMEDIES

AN ACT Relating to evicting persons for drug activities in rental dwellings; amending RCW 59.18.130, 59.18.390, 59.18.400, 59.20.080, 59.20.140, 59.18.180, 69.53.010, and 69.53.020; adding a new section to chapter 69.41 RCW; adding a new section to chapter 69.50 RCW; adding a new section to chapter 69.52 RCW; adding a new section to chapter 59.18 RCW; adding a new section to chapter 59.20 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the illegal use, sale, and manufacture of drugs and other drug-related activities is a statewide problem. Innocent persons, especially children, who come into contact with illegal drug-related activity within their own neighborhoods are seriously and adversely affected. Rental property is damaged and devalued by drug activities. The legislature further finds that a rapid and efficient response is necessary to: (1) Lessen the occurrence of drug-related enterprises; (2) reduce the drug use and trafficking problems within this state; and (3) reduce the damage caused to persons and property by drug activity. The legislature finds that it is beneficial to rental property owners and to the

public to permit landlords to quickly and efficiently evict persons who engage in drug-related activities at rented premises.

Sec. 2. Section 13, chapter 207, Laws of 1973 1st ex. sess. as amended by section 3, chapter 264, Laws of 1983 and RCW 59.18.130 are each amended to read as follows:

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

(1) Keep that part of the premises which he occupies and uses as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose from his dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;

(3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;

(4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his family, invitee, licensee, or any person acting under his control to do so. Violations may be prosecuted under chapter 9A-.48 RCW if the destruction is intentional and malicious;

(5) Not permit a nuisance or common waste; ((~~and~~))

(6) Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW; and

(7) Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his obligations under this chapter: PROVIDED, That the tenant shall not be charged for normal cleaning if he has paid a nonrefundable cleaning fee.

Sec. 3. Section 40, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.390 are each amended to read as follows:

The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved

by the clerk of said court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the said premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of said premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. The plaintiff, his agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon said bond before said bond shall be approved by the clerk. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant, the defendant, nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of said writ in a conspicuous place upon the premises.

Sec. 4. Section 41, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.400 are each amended to read as follows:

On or before the day fixed for his appearance the defendant may appear and answer. The defendant in his answer may assert any legal or equitable defense or set-off arising out of the tenancy. If the complaint alleges that the tenancy should be terminated because the defendant tenant, subtenant, sublessee, or resident engaged in drug-related activity, or allowed any other person to engage in drug-related activity at the rental premises with his or her knowledge or consent, no set-off shall be allowed as a defense to the complaint.

Sec. 5. Section 8, chapter 279, Laws of 1977 ex. sess. as last amended by section 4, chapter 58, Laws of 1984 and RCW 59.20.080 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the landlord shall not terminate a tenancy, of whatever duration except for one or more of the following reasons:

(a) Substantial violation, or repeated or periodic violations of the rules of the mobile home park as established by the landlord at the inception of the tenancy or as assumed subsequently with the consent of the tenant or for violation of the tenant's duties as provided in RCW 59.20.140. The tenant shall be given written notice to cease the rule violation immediately. The notice shall state that failure to cease the violation of the rule or any subsequent violation of that or any other rule shall result in termination of the tenancy, and that the tenant shall vacate the premises within fifteen

days: PROVIDED, That for a periodic violation the notice shall also specify that repetition of the same violation shall result in termination: PROVIDED FURTHER, That in the case of a violation of a "material change" in park rules with respect to pets, tenants with minor children living with them, or recreational facilities, the tenant shall be given written notice under this chapter of a six month period in which to comply or vacate;

(b) Nonpayment of rent or other charges specified in the rental agreement, upon five days written notice to pay rent and/or other charges or to vacate;

(c) Conviction of the tenant of a crime, commission of which threatens the health, safety, or welfare of the other mobile home park tenants. The tenant shall be given written notice of a fifteen day period in which to vacate;

(d) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobile homes or mobile home living within a reasonable time after the tenant's receipt of notice of such noncompliance from the appropriate governmental agency;

(e) Change of land use of the mobile home park including, but not limited to, conversion to a use other than for mobile homes or conversion of the mobile home park to a mobile home park cooperative or mobile home park subdivision: PROVIDED, That the landlord shall give the tenants twelve months' notice in advance of the proposed effective date of such change;

(f) Engaging in "drug-related activity." "Drug-related activity" means that activity which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW.

(2) A landlord may terminate any tenancy without cause. Such termination shall be effective twelve months from the date the landlord serves notice of termination upon the tenant or at the end of the current tenancy, whichever is later: PROVIDED, That a landlord shall not terminate a tenancy for any reason or basis which is prohibited under RCW 59.20.070 (3) or (4) or is intended to circumvent the provisions of (1)(e) of this section.

(3) Within five days of a notice of eviction as required by subsection (1)(a) or (2) of this section, the landlord and tenant shall submit any dispute, including the decision to terminate the tenancy without cause, to mediation. The parties may agree in writing to mediation by an independent third party or through industry mediation procedures. If the parties cannot agree, then mediation shall be through industry mediation procedures. A duty is imposed upon both parties to participate in the mediation process in good faith for a period of ten days for an eviction under subsection (1)(a) of this section, or for a period of thirty days for an eviction under subsection (2) of this section. It is a defense to an eviction under subsection (1)(a) or (2) of this section that a landlord did not participate in the mediation process in good faith.

Sec. 6. Section 9, chapter 186, Laws of 1979 ex. sess. and RCW 59-.20.140 are each amended to read as follows:

It shall be the duty of the tenant to pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances and regulations, and in addition the tenant shall:

(1) Keep the mobile home lot which he occupies and uses as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose of all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant on the tenant's leased premises;

(3) Not intentionally or negligently destroy, deface, damage, impair, or remove any facilities, equipment, furniture, furnishings, fixtures or appliances provided by the landlord, or permit any member of his family, invitee, or licensee, or any person acting under his control to do so; ((~~and~~))

(4) Not permit a nuisance or common waste; and

(5) Not engage in drug-related activities as defined in RCW 59.20.080.

Sec. 7. Section 18, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.180 are each amended to read as follows:

If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident that can be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. Any substantial noncompliance by the tenant of RCW 59.18.130 or 59.18.140 shall constitute a ground for commencing an action in unlawful detainer in accordance with the provisions of chapter 59.12 RCW, and a landlord may commence such action at any time after written notice pursuant to such chapter. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter 59.12 RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency:

PROVIDED, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant may be liable to the landlord for statutory costs and reasonable attorney's fees.

If drug-related activity is alleged to be a basis for termination of tenancy under RCW 59.18.130(6), 59.12.030(5), or 59.20.140(5), the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action.

NEW SECTION. Sec. 8. A new section is added to chapter 69.41 RCW to read as follows:

Whenever a legend drug which is sold, delivered, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known by the law enforcement agency, of the seizure and the location of the seizure.

NEW SECTION. Sec. 9. A new section is added to chapter 69.50 RCW to read as follows:

Whenever a controlled substance which is manufactured, distributed, dispensed, or acquired in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known by the law enforcement agency, of the seizure and the location of the seizure.

NEW SECTION. Sec. 10. A new section is added to chapter 69.52 RCW to read as follows:

Whenever an imitation controlled substance which is manufactured, distributed, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure.

NEW SECTION. Sec. 11. A new section is added to chapter 59.18 RCW to read as follows:

Any law enforcement agency which seizes a legend drug pursuant to a violation of chapter 69.41 RCW, a controlled substance pursuant to a violation of chapter 69.50 RCW, or an imitation controlled substance pursuant to a violation of chapter 69.52 RCW, shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure of the illegal drugs or substances.

NEW SECTION. Sec. 12. A new section is added to chapter 59.20 RCW to read as follows:

Any law enforcement agency which seizes a legend drug pursuant to a violation of chapter 69.41 RCW, a controlled substance pursuant to a violation of chapter 69.50 RCW, or an imitation controlled substance pursuant to a violation of chapter 69.52 RCW, shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure of the illegal drugs or substances.

Sec. 13. Section 7, chapter 458, Laws of 1987 and RCW 69.53.010 are each amended to read as follows:

(1) It is unlawful for any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly rent, lease, or make available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section to, in good faith, notify a law enforcement agency of suspected drug activity pursuant to subsection (1) of this section, or to process an unlawful detainer action for drug-related activity against the tenant or occupant.

(((~~(2)~~))) (3) A violation of this section is a class C felony punishable under chapter 9A.20 RCW.

Sec. 14. Section 8, chapter 458, Laws of 1987 and RCW 69.53.020 are each amended to read as follows:

(1) It is unlawful for any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly allow the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the unlawful manufacture, delivery, sale, storage, or gift of any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section to, in good faith, notify a law enforcement agency of suspected drug activity pursuant to subsection (1) of this section, or to process an unlawful detainer action for drug-related activity against the tenant or occupant.

(((~~(2)~~))) (3) A violation of this section is a class C felony punishable under chapter 9A.20 RCW.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 151

[House Bill No. 1280]

CUSTODIAL ASSAULT—COMMUNITY CORRECTION OFFICERS

AN ACT Relating to custodial assault; and amending RCW 9A.36.100.

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

Sec. 1. Section 1, chapter 188, Laws of 1987 and RCW 9A.36.100 are each amended to read as follows:

(1) A person is guilty of custodial assault if that person is not guilty of an assault in the first or second degree and where the person:

(a) Assaults a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent thereof at any juvenile corrections institution or local juvenile detention facilities who was performing official duties at the time of the assault; ((or))

(b) Assaults a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent thereof at any adult corrections institution or local adult detention facilities who was performing official duties at the time of the assault;

(c)(i) Assaults a full or part-time community correction officer while the officer is performing official duties; or

(ii) Assaults any other full or part-time employee who is employed in a community corrections office while the employee is performing official duties; or

(d) Assaults any volunteer who was assisting a person described in (c) of this subsection at the time of the assault.

(2) Custodial assault is a class C felony.

Passed the House January 25, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 152

[Substitute House Bill No. 1419]

CRIMINAL JUSTICE INFORMATION—OFFICE OF FINANCIAL MANAGEMENT MAY LET CONTRACT FOR COLLECTION AND TRANSMITTAL

AN ACT Relating to criminal justice information; amending RCW 10.98.130; and declaring an emergency.

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

Sec. 1. Section 13, chapter 17, Laws of 1984 as amended by section 3, chapter 462, Laws of 1987 and RCW 10.98.130 are each amended to read as follows:

Local jails shall report to the office of financial management and that office shall transmit to the department the information on all persons convicted of felonies or incarcerated for noncompliance with a felony sentence who are admitted or released from the jails and shall promptly respond to requests of the department for such data. Information transmitted shall include but not be limited to the state identification number, whether the reason for admission to jail was a felony conviction or noncompliance with a felony sentence, and the dates of the admission and release.

The office of financial management may contract with a state or local governmental agency, or combination thereof, or a private organization for the information collection and transmittal under this section.

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 15, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 153

[Engrossed Substitute House Bill No. 1424]

COMMUNITY PLACEMENT

AN ACT Relating to community placement; amending RCW 9.94A.150, 72.09.020, 9.94A.170, 9.94A.200, 9.94A.360, and 9.94A.330; reenacting and amending RCW 9.94A.030 and 9.94A.120; adding new sections to chapter 9.94A RCW; adding new sections to chapter 72.09 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

Sec. 1. Section 3, chapter 137, Laws of 1981 as last amended by section 3, chapter 187, Laws of 1987, by section 1, chapter 456, Laws of 1987,

and by section 1, chapter 458, Laws of 1987 and RCW 9.94A.030 are each reenacted and amended to read as follows:

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

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(4) "Community placement" means a one-year period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(5) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(((~~4~~))) (6) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(((~~5~~))) (7) "Confinement" means total or partial confinement as defined in this section.

(((~~6~~))) (8) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(((~~7~~))) (9) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(((~~8~~))) (10) (a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof;

and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" includes a defendant's prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

((~~(9)~~)) (11) "Department" means the department of corrections.

((~~(10)~~)) (12) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

((~~(11)~~)) (13) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

((~~(12)~~)) (14) "Escape" means:

(a) 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), or wilful failure to comply with any limitations on the inmate's movements while in community custody (section 6 of this 1988 act); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

((~~(13)~~)) (15) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

((~~(14)~~)) (16) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

((~~(15)~~)) (17) (a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

((~~(16)~~)) (18) "Nonviolent offense" means an offense which is not a violent offense.

((~~(17)~~)) (19) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

((~~(18)~~)) (20) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release as defined in this section.

(21) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

((~~(19)~~)) (22) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

((~~(20)~~)) (23) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61-.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

((~~(21)~~)) (24) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape

in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

((~~(22)~~)) (25) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

((~~(23)~~)) (26) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A-.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

((~~(24)~~)) (27) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((~~(25)~~)) (28) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

((~~(26)~~)) (29) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection ((~~(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 (a) or (b) of this subsection ((~~(26)(a) or (b) of this section~~)).

((~~(27)~~)) (30) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

Sec. 2. Section 1, chapter 402, Laws of 1987 and section 2, chapter 456, Laws of 1987 and RCW 9.94A.120 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

(8) (a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense, a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69-.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW

9.94A.150(1). When the court sentences an offender under this section to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150(1). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense, a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, unless a condition is waived by the court, the sentence shall include, in addition to the other terms of the sentence, a one-year term of community placement on the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances; and

(v) The offender shall pay community placement fees as determined by the department of corrections.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(vi) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty

days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

((~~(9)~~)) (10) If a sentence imposed includes a fine or restitution, the sentence shall specify a reasonable manner and time in which the fine or restitution shall be paid. Restitution to victims shall be paid prior to any other payments of monetary obligations. In any sentence under this chapter the court may also require the offender to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (a) to pay court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, (b) to make recoupment of the cost of defense attorney's fees if counsel is provided at public expense, (c) to contribute to a county or interlocal drug fund, 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.~~)) The offender's compliance with payment of monetary obligations shall be supervised by the department. The rate of payment shall be determined by the court or, in the absence of a rate determined by the court, the rate shall be set by the department. All monetary payments ordered shall be paid no later than ten years after the most recent of either the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

((~~(10)~~)) (11) Except as provided under RCW 9.94A.140(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

((~~(11)~~)) (12) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow ((~~implicitly~~)) explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer of any change in the offender's address or employment.

((~~(12)~~)) (13) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

((~~(13)~~)) (14) A departure from the standards in RCW 9.94A.400(1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210(2) through (6).

((~~(14)~~)) (15) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

((~~(15)~~)) (16) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision.

((~~(16)~~)) (17) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release.

Sec. 3. Section 15, chapter 137, Laws of 1981 as last amended by section 8, chapter 209, Laws of 1984 and RCW 9.94A.150 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except for persons convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, the terms of the sentence may be reduced by earned early release time in accordance with procedures developed and promulgated by the department. The earned early release time shall be for good behavior and good performance, as determined by the department. In no case shall the aggregate earned early release time exceed one-third of the sentence. Persons convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW may become eligible for community custody in lieu of earned early release time in accordance with the program developed by the department;

(2) When a person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW is eligible for transfer to community custody status in lieu of earned early release time pursuant to subsection (1) of this section, as computed by the department of corrections, the offender shall be transferred to community custody.

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

((~~(3)~~)) (4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

((~~(4)~~)) (5) If the sentence of confinement is in excess of twelve months but not in excess of three years, no more than the final three months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community. If the sentence of confinement is in excess of three years, no more than the final six months of the sentence may be served in such partial confinement;

((~~(5)~~)) (6) The governor may pardon any offender;

((~~(6)~~)) (7) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

((~~(7)~~)) (8) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

If an inmate violates any condition or requirement of community custody, the department may transfer the inmate to a more restrictive confinement status to serve the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation. If an inmate is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as inmate disciplinary proceedings and shall not be subject to chapter 34.04 RCW. The department shall develop hearing procedures and sanctions.

NEW SECTION. Sec. 5. A new section is added to chapter 9.94A RCW to read as follows:

(1) The secretary may issue warrants for the arrest of any offender who violates a condition of community placement. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation. The department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440. A community corrections officer, if he or she has reasonable cause to believe an offender in community placement has violated a condition of community placement, may suspend the person's community placement status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community placement status. A violation of a condition of community placement shall be deemed a violation of the sentence for purposes of RCW 9.94A.195. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.195.

(2) Inmates, as defined in RCW 72.09.020, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections. The community custody inmate shall be removed from the local correctional facility not later than eight days, excluding weekends and holidays, following admittance to the local correctional facility and notification that the inmate is available for movement to a state correctional institution. However, if good cause is shown, the department may negotiate with local correctional authorities for an additional period of detention.

NEW SECTION. Sec. 6. A new section is added to chapter 72.09 RCW to read as follows:

An inmate in community custody who wilfully fails to comply with any one or more of the controls placed on the inmate's movements by the department of corrections shall be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a class C felony under chapter 9A.20 RCW.

Sec. 7. Section 7, chapter 136, Laws of 1981 and RCW 72.09.020 are each amended to read as follows:

For purposes of this chapter, "inmate" means any person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough ((or)), work release, or community custody.

NEW SECTION. Sec. 8. A new section is added to chapter 9.94A RCW to read as follows:

If the offender violates any condition of postrelease supervision, a hearing may be conducted in the same manner as provided in RCW 9.94A-.200. Jurisdiction shall be with the court of the county in which the offender was sentenced. However, the court may order a change of venue to the offender's county of residence or where the violation occurred, for the purpose of holding a violation hearing.

After the hearing, the court may order the offender to be confined for up to sixty days per violation in the county jail. Reimbursement to a city or county for the care of offenders who are detained solely for violating a condition of postrelease supervision shall be under RCW 70.48.440. A county shall be reimbursed for indigent defense costs for offenders who are detained solely for violating a condition of postrelease supervision in accordance with regulations to be promulgated by the office of financial management. 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. The court shall retain jurisdiction for the purpose of holding the violation hearing and imposing a sanction.

Sec. 9. Section 17, chapter 137, Laws of 1981 and RCW 9.94A.170 are each amended to read as follows:

(1) A term of confinement, including community custody, ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented him or herself from ((~~supervision~~)) confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.

(2) A term of supervision, including postrelease supervision ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3) Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason. However, if an offender is detained pursuant to section 5 of this 1988 act or RCW 9.94A.195 and is later found not to have violated a condition or requirement of supervision, time spent in confinement due to such detention shall not toll to period of supervision.

(4) For confinement sentences, the date for the tolling of the sentence shall be established by the entity responsible for the confinement. For sentences involving supervision, the date for the tolling of the sentence shall be established by the court, based on reports from the entity responsible for the supervision.

NEW SECTION. Sec. 10. A new section is added to chapter 72.09 RCW to read as follows:

The state of Washington, the department and its employees, community corrections officers, their staff, and volunteers who assist community corrections officers in the community placement program are not liable for civil damages resulting from any act or omission in the rendering of community placement activities unless the act or omission constitutes gross negligence. For purposes of this section, "volunteers" is defined according to RCW 51.12.035.

Sec. 11. Section 20, chapter 137, Laws of 1981 as amended by section 12, chapter 209, Laws of 1984 and RCW 9.94A.200 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence. If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may convert a term of partial confinement to total confinement. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court; and

(c) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of fines or other monetary payments and regarding community service obligations.

(3) Nothing in this section prohibits the filing of escape charges if appropriate.

Sec. 12. Section 7, chapter 115, Laws of 1983 as last amended by section 4, chapter 456, Laws of 1987 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, partially summarized in Table 3, RCW 9.94A.330, are as follows:

The offender score is the sum of points accrued under 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 subsection (3) 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.

(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) or (12) 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.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (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.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide; count one point for each adult, and 1/2 point for each juvenile, prior conviction for each other felony offense or serious traffic offense.

(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 Willful Failure to Return from Furlough, RCW 72.66.060, or 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.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(15) If the present conviction is for Burglary 2, count priors as in subsection (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.

(16) If the present conviction is for an offense committed while the offender was under community placement, add one point.

Sec. 13. Section 4, chapter 115, Laws of 1983 as last amended by section 24, chapter 257, Laws of 1986 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
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
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*
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*
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*

Status at Time of Current Offense

On community placement	*1*
Not on community placement	*0*

*Sec. 13 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 14. The department of corrections shall report to the legislature on its plans for implementation of this act prior to January 10, 1989. The report shall address: (1) The classification system used to determine the supervision level; and (2) the contact standards for monitoring offenders. This section shall expire February 1, 1989.

NEW SECTION. Sec. 15. Increased sanctions authorized by this act are applicable only to those persons committing offenses after the effective date of this act.

NEW SECTION. Sec. 16. This act shall take effect July 1, 1988.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 21, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 21, 1988.

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

"I am returning herewith, without my approval as to section 13, Engrossed Substitute House Bill No. 1424 entitled:

"AN ACT Relating to community placement."

Section 13 amends RCW 9.94A.330, the offender score matrix, to include an additional one point sentencing enhancement for offenders who commit crimes while on community placement. This same provision is amended by section 12 into RCW 9.94A.360 which establishes offender scoring procedures.

Substitute Senate Bill No. 6462, section 6, repeals RCW 9.94A.330. This measure is intended to clarify statutes relating to sentencing, and repeals the offender score matrix on the grounds that it is redundant and potentially confusing. I agree that this statute should be repealed for clarification purposes. Because the sentencing enhancement will be included in RCW 9.94A.360, there will be no effect on the substance of Engrossed Substitute House Bill No. 1424.

With the exception of section 13, Engrossed Substitute House Bill No. 1424 is approved."

CHAPTER 154

[Substitute House Bill No. 1429]
HOME DETENTION

AN ACT Relating to home detention under the sentencing reform act; amending RCW 9.94A.180 and 9.94A.190; reenacting and amending RCW 9.94A.030 and 9.94A.120; 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) There is a critical shortage of space in many county jails, which is likely to become even more acute during the next several years due to (a) increases in apprehensions for crimes involving violence and controlled substances, (b) increases in the length of confinement for repeat offenders of property crimes under the sentencing reform act, and (c) repeat offenders under laws prohibiting driving while intoxicated.

(2) Neither time nor financial resources are available to construct additional jail facilities. The present excess bed capacity in the state prison system is projected to disappear within the next two years.

(3) Public safety requires innovative approaches to incarceration alternatives. These alternatives must minimize risks to public safety through the use of supervision and monitoring techniques.

(4) Partial confinement for appropriate offenders, with realistic monitoring, appears to offer an alternative incarceration option for local jurisdictions that have determined that the option is an appropriate response to local needs.

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

Sec. 2. Section 3, chapter 137, Laws of 1981 as last amended by section 3, chapter 187, Laws of 1987, section 1, chapter 456, Laws of 1987, and by section 1, chapter 458, Laws of 1987 and RCW 9.94A.030 are each reenacted and amended to read as follows:

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

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(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). 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.

(5) "Confinement" m. .ns 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 in juvenile court if: (i) The conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(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:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(12) "Escape" means:

(a) 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); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(13) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(14) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(15)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

(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.

(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 other unit of government, or, if home detention has been ordered by the court, in the residence of either the defendant or a member of the defendant's immediate family, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release and home detention as defined in this section.

(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.

(20) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61-.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(21) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(22) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(23) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A-.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(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.

(25) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(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, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in subsection (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 (26) (a) or (b) of this section.

(27) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(28) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence

subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, for the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in RCW 9A.40.040, burglary in the second degree as defined in RCW 9A.52.030, or harassment as defined in RCW 9A.46.020. Participation in a home detention program shall be conditioned upon: (a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, (b) abiding by the rules of the home detention program, and (c) compliance with court-ordered restitution.

Sec. 3. Section 1, chapter 402, Laws of 1987 and section 2, chapter 456, Laws of 1987 and RCW 9.94A.120 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which

may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of

confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

(8) 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, 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.

(15) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the

offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision.

(16) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release or in a program of home detention.

Sec. 4. Section 18, chapter 137, Laws of 1981 as amended by section 3, chapter 456, Laws of 1987 and RCW 9.94A.180 are each amended to read as follows:

(1) An offender sentenced to a term of partial confinement shall be confined in the facility for at least eight hours per day. The offender shall be required as a condition of partial confinement to report to the facility at designated times. An offender may be required to comply with crime-related prohibitions during the period of partial confinement.

(2) An offender in a county jail ordered to serve all or part of a term of less than one year in work release or a program of home detention who violates the rules of the work release facility or program of home detention or fails to remain employed or enrolled in school may be transferred to the appropriate county detention facility without further court order but shall, upon request, be notified of the right to request an administrative hearing on the issue of whether or not the offender failed to comply with the order and relevant conditions. Pending such hearing, or in the absence of a request for the hearing, the offender shall serve the remainder of the term of confinement as total confinement. This subsection shall not affect transfer or placement of offenders committed to the state department of corrections.

Sec. 5. Section 19, chapter 137, Laws of 1981 as last amended by section 21, chapter 257, Laws of 1986 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, or if home detention has been ordered by the court, in the residence of either the defendant or a member of the defendant's immediate family.

(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.

Passed the House March 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 21, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 21, 1988.

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

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 1429 entitled:

"AN ACT Relating to home detention under the sentencing reform act."

Section 1 of this bill contains legislative findings regarding population overcrowding in local jails. Reasons for these conditions have not been fully determined but are attributable to myriad causes and it is inappropriate to codify what appear to be only conclusions.

I support the use of home detention as an alternative, due to pressure of jail overcrowding. This bill contains reasonable provisions preventing the use of home detention for persons who committed violent crimes and other offenses where the court feels the public or victims would be at risk. I view this as an experiment worth trying.

With the exception of section 1, Substitute House Bill No. 1429 is approved."

CHAPTER 155

[Substitute House Bill No. 1279]

SENTENCE VIOLATION—CONVERSION OF OBLIGATIONS—PARTIAL CONFINEMENT—COMMERCIALIZATION BY CONVICT, ESCROW ACCOUNT DISPOSITION

AN ACT Relating to financial and legal obligations for victims of crime; amending RCW 9.94A.200, 9.94A.380, and 7.68.240; and reenacting and amending RCW 9.94A.120.

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

Sec. 1. Section 1, chapter 402, Laws of 1987 and section 2, chapter 456, Laws of 1987 and RCW 9.94A.120 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own

motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony sexual offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program

before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer 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 (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

(8) 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. Restitution to victims shall be paid prior to any other payments of monetary obligations. In any sentence under this chapter the court may also require the offender to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (a) to pay court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, (b) to make recoupment of the cost of defense attorney's fees if counsel is provided at public expense, (c) to contribute to a county or interlocal drug fund, 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.~~)) The offender's compliance with payment of monetary obligations shall be supervised by the department. The rate of payment shall be determined by the court or, in the absence of a rate determined by the court, the rate shall be set by the department. All monetary payments shall be ordered paid by no later than ten years since the most recent of either the last date of release from confinement pursuant to a felony conviction or the day the judgment and sentence was entered. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these financial obligations.

If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(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~~)) or court-imposed monetary obligations 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~~)) explicitly the instructions of the secretary ((~~including~~)) related to reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, ((~~and~~)) or 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.

(15) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision.

(16) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release.

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

Sec. 2. Section 20, chapter 137, Laws of 1981 as amended by section 12, chapter 209, Laws of 1984 and RCW 9.94A.200 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may (i) convert a term of partial confinement to total confinement, (ii) convert community service obligation to total or partial confinement, or (iii) convert monetary obligations, except restitution and the crime victim penalty assessment, to community service hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community service. Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement order by the court; and

(c) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of fines or other monetary payments and regarding community service obligations.

(3) Nothing in this section prohibits the filing of escape charges if appropriate.

Sec. 3. Section 9, chapter 115, Laws of 1983 as amended by section 21, chapter 209, Laws of 1984 and RCW 9.94A.380 are each amended to read as follows:

For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used.

These alternatives include the following sentence conditions that the court may order as substitutes for total confinement: (1) One day of partial confinement or eight hours of community service may be substituted for one day of total confinement; (2) the community service conversion is limited to two hundred forty hours or thirty days. The conversion of total confinement to partial confinement may be applied to all sentences of one year or less, including those for violent offenses. Community service hours must be completed within the period of community supervision or a time period specified by the court, which shall not exceed twenty-four months, pursuant to a schedule determined by the department.

Sec. 4. Section 16, chapter 219, Laws of 1979 ex. sess. and RCW 7.68.240 are each amended to read as follows:

Upon a showing by any convicted person or the state that five years have elapsed from the establishment of such escrow account and further

that no actions are pending against such convicted person pursuant to ((~~this act~~)) RCW 7.68.200 through 7.68.280, the department shall immediately pay over fifty percent of any moneys in the escrow account to such person or his legal representatives and fifty percent of any moneys in the escrow account to the fund under RCW 7.68.035(4).

Passed the House March 5, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 21, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 21, 1988.

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

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 1279 entitled:

"AN ACT Relating to financial and legal obligations for victims of crime."

Section 1 of this bill amends a subsection of RCW 9.94A.120 relating to payment schedules for monetary obligations of offenders. Similar language is contained in Engrossed Substitute House Bill No. 1424, section 2. In order to avoid confusion, I am vetoing section 1 of this measure.

With the exception of section 1, Substitute House Bill No. 1279 is approved."

CHAPTER 156

[Substitute Senate Bill No. 6498]
COUNSEL FOR INDIGENT PERSONS—STUDY

AN ACT Relating to counsel for indigent persons; and creating new sections.

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

NEW SECTION. Sec. 1. (1) A committee is created to study the current system in Washington state for providing representation to persons who could not otherwise afford counsel.

(2) The committee shall consist of the following members:

(a) One member appointed by the governor;

(b) One member appointed by the office of financial management;

(c) One member appointed by the department of community development;

(d) One member appointed by the chief justice of the state supreme court;

(e) Two members appointed by the Washington State Bar Association, at least one of whom currently provides indigent criminal defense representation;

(f) One member appointed by the association of counties;

(g) One member appointed by the speaker of the house of representatives;

(h) One member appointed by the president of the senate.

(3) A full-time staff position shall be created within the administrator for the courts to administer the work of the committee and prepare a report to the legislature. The committee and the staff position shall expire on February 1, 1989.

NEW SECTION. Sec. 2. The committee shall review the current systems for providing appellate and trial representation to indigent persons in all cases where right to counsel attaches. On or before January 1, 1989, the committee shall report to the judiciary committee of the house of representatives, the law and justice committee of the senate, and the governor on improving the delivery of indigent defense services at the appellate and trial levels. The report shall:

(1) Summarize the current methods of providing indigent services in the state, their costs, and caseloads;

(2) Recommend standards and guidelines for determining appropriate levels of experience and caseload for attorneys under the program;

(3) Establish guidelines to determine who should be eligible to receive legal services;

(4) Recommend alternatives to the current methods of providing and financing appellate and trial services;

(5) Recommend levels of training and supervision of attorneys providing appellate and trial services;

(6) Recommend appropriate levels of compensation and support staff;

(7) Recommend standards for determining indigency.

Passed the Senate February 13, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 157

[Substitute Senate Bill No. 6462]

SENTENCING OF ADULT FELONS—TECHNICAL CORRECTIONS

AN ACT Relating to technical corrections in the procedures for sentencing adult felons; amending RCW 9.94A.060, 9.94A.360, 9.94A.380, and 9.94A.400; reenacting and amending RCW 9.94A.030; creating a new section; and repealing RCW 9.94A.330.

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

Sec. 1. Section 3, chapter 137, Laws of 1981 as last amended by section 3, chapter 187, Laws of 1987, section 1, chapter 456, Laws of 1987 and by section 1, chapter 458, Laws of 1987 and RCW 9.94A.030 are each reenacted and amended to read as follows:

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

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(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). 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.

(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 histo[illegible] includes a defendant's prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(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:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(12) "Escape" means:

(a) 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); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(13) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(14) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(15)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction.

(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.

(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 other unit of government, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release as defined in this section.

(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.

(20) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61-.500), or hit–and–run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out–of–state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(21) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out–of–state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(22) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(23) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A-.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(b) Any federal or out–of–state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(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.

(25) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

(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, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in subsection (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 (26) (a) or (b) of this section.

(27) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

Sec. 2. Section 6, chapter 137, Laws of 1981 as amended by section 10, chapter 287, Laws of 1984 and RCW 9.94A.060 are each amended to read as follows:

(1) The commission consists of fifteen voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, subject to confirmation by the senate.

(2) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management, as an ex officio member;

(c) Until July 1, ((~~1988, the chairman~~)) 1992, the chair of the indeterminate sentencing review board ((~~of prison terms and paroles~~)), as an ex officio member, and thereafter the ((~~chairman~~)) chair of the clemency and pardons board, as an ex officio member;

(d) Two prosecuting attorneys;

(e) Two attorneys with particular expertise in defense work;

(f) Four persons who are superior court judges;

(g) One person who is the chief law enforcement officer of a county or city;

(h) Three members of the public who are not and have never been prosecutors, attorneys, judges, or law enforcement officers.

In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the attorney members, of the association of superior court judges in respect to the members who are judges, and of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer.

(3) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing four of the initial members for terms of one year, four for terms of two years, and four for terms of three years.

(4) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(5) The members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members shall be reimbursed by their respective houses as provided under RCW 44-.04.120, as now existing or hereafter amended. Members shall be compensated in accordance with RCW 43.03.250.

Sec. 3. Section 7, chapter 115, Laws of 1983 as last amended by section 4, chapter 456, Laws of 1987 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((~~, partially summarized in Table 3, RCW 9.94A.330,~~)) are as follows:

The offender score is the sum of points accrued under 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 subsection ((~~(3)~~)) (4) 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.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

((~~(3)~~)) (4) 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.

((~~(4)~~)) (5) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

((~~(5)~~)) (6) 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)~~)) (7) 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)~~)) (8) If the present conviction is for a nonviolent offense and not covered by subsection ((~~(11) or~~)) (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)~~)) (9) If the present conviction is for a violent offense and not covered in subsection ((~~(9),~~)) (10), (11), ((~~or~~)) (12), or (13) 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)~~)) (10) If the present conviction is for Murder 1 or 2, Assault 1, Kidnaping 1, Homicide by Abuse, 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.

((~~(10)~~)) (11) If the present conviction is for Burglary 1, count prior convictions as in subsection ((~~(8)~~)) (9) of this section; however count two points for each prior adult Burglary 2 conviction, and one point for each prior juvenile Burglary 2 conviction.

((~~(11)~~)) (12) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult((~~;~~)) and 1/2 point for each juvenile((~~;~~)) prior conviction ((~~for each other felony offense or serious traffic offense~~)).

((~~(12)~~)) (13) 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)~~)) (9) of this section if the current drug offense is violent, or as in subsection ((~~(7)~~)) (8) of this section if the current drug offense is nonviolent.

((~~(13)~~)) (14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, or 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.

((~~(14)~~)) (15) If the present conviction is for Escape 1, RCW 9A.76-.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

((~~(15)~~)) (16) If the present conviction is for Burglary 2, count priors as in subsection ((~~(7)~~)) (8) 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.

Sec. 4. Section 9, chapter 115, Laws of 1983 as amended by section 21, chapter 209, Laws of 1984 and RCW 9.94A.380 are each amended to read as follows:

((~~For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used.~~))

Alternatives to total confinement are available for offenders with sentences of one year or less. These alternatives include the following sentence conditions that the court may order as substitutes for total confinement: (1) One day of partial confinement ((~~or eight hours of community service~~)) may be substituted for one day of total confinement; (2) ((~~the~~)) in addition, for offenders convicted of nonviolent offenses only, eight hours of community service ((~~conversion is limited to~~)) may be substituted for one day of total confinement, with a maximum conversion limit of two hundred forty hours or thirty days. ((~~The conversion of total confinement to partial confinement may be applied to all sentences of one year or less, including those for violent offenses.~~))

For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons in writing on the judgment and sentence form if the alternatives are not used.

Sec. 5. Section 11, chapter 115, Laws of 1983 as last amended by section 5, chapter 456, Laws of 1987 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 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 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. 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)(e) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under RCW 9.94A.390.

(b) Whenever a person is convicted of three or more serious violent offenses, as defined in RCW ((~~9.94A.330~~)) 9.94A.030, 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 ((~~criminal history~~)) prior convictions and other current convictions that are not serious violent offenses in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any 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~~)) confinement, 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 concurrently with any felony 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 current sentence expressly orders that they be served 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, 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.

NEW SECTION. Sec. 6. Section 4, chapter 115, Laws of 1983, section 18, chapter 209, Laws of 1984, section 24, chapter 257, Laws of 1986 and RCW 9.94A.330 are each repealed.

NEW SECTION. Sec. 7. This act applies to crimes committed after July 1, 1988.

Passed the Senate February 16, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 158

[Substitute Senate Bill No. 6147]
ASSAULT REVISIONS

AN ACT Relating to revising criminal code definitions; amending RCW 9A.04.110, 9A-.36.021, and 9A.36.031; and providing an effective date.

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

Sec. 1. Section 9A.04.110, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 324, Laws of 1987 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 injury," "physical injury," 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((~~, or substantial pain, whether such substantial bodily harm is temporary or permanent~~));

(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 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) ((~~"Substantial pain" means serious physical pain extending for a period of time long enough to cause considerable suffering. The pain shall be the result of an actual injury capable of causing serious physical pain;~~

~~(26)~~)) "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;

(((~~(27)~~))) (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;

(((~~(28)~~))) (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.

Sec. 2. Section 5, chapter 257, Laws of 1986 as amended by section 2, chapter 324, Laws of 1987 and RCW 9A.36.021 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture.

(2) Assault in the second degree is a class B felony.

Sec. 3. Section 6, chapter 257, Laws of 1986 and RCW 9A.36.031 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle 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; or

(e) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering.

(2) Assault in the third degree is a class C felony.

NEW SECTION. Sec. 4. This act shall take effect July 1, 1988.

Passed the Senate February 13, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 159

[Substitute House Bill No. 791]

CAMPING RESORTS

AN ACT Relating to camping resorts; amending RCW 19.105.300, 19.105.310, 19.105-.320, 19.105.330, 19.105.340, 19.105.350, 19.105.360, 19.105.370, 19.105.380, 19.105.390, 19-.105.400, 19.105.420, 19.105.430, 19.105.440, 19.105.450, 19.105.470, 19.105.480, 19.105.510, 19.105.520, and 19.105.530; adding new sections to chapter 19.105 RCW; repealing RCW 19-.105.410; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 1, chapter 69, Laws of 1982 and RCW 19.105.300 are each amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Camping ((~~club~~)) resort" means any enterprise, other than one that is tax exempt under section 501(c)(3) of the Internal Revenue Code of ((~~1954~~)) 1986, as amended, that has as its primary purpose ((~~camping or outdoor recreation and~~)) the ownership, operation, or promotion of campgrounds that includes or will ((~~including [include]~~)) include camping sites.

(2) "Camping ((~~club~~)) resort contract" means an agreement evidencing a purchaser's title to, estate or interest in, or right or license to use for more than thirty days the ((~~camping or outdoor recreation facilities~~)) campground of a camping ((~~club~~)) resort.

(3) "Camping site" means a space designed and promoted for the purpose of locating a trailer, tent, tent trailer, pick-up camper, or other similar device used for land-based portable housing.

(4) "Purchaser" means a person who enters into a camping ((~~club~~)) resort contract and thereby obtains title to, an estate or interest in, or license or the right to use the ((~~camping or outdoor recreation facilities~~)) campground of a camping ((~~club~~)) resort.

(5) "Person" means any individual, corporation, partnership, trust, association, or other organization other than a government or a subdivision thereof.

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

(7) "Camping ((~~club~~)) resort operator" means any person who establishes, promotes, owns, or operates a camping ((~~club~~)) resort.

(8) "Advertisement" means any offer, written, printed, audio, or visual ((~~offer~~)), by general solicitation, including all material used by an operator in a membership referral program.

(9) "Offer" means any solicitation reasonably designed to result in the entering into of a camping ((~~club~~)) resort contract.

(10) "Sale" or "sell" means entering into, or other disposition, of a camping ((~~club~~)) resort contract for value, but the term value does not include a reasonable fee to offset the ministerial costs of transfer of a camping ((~~club~~)) resort contract if, in transferring the contract or membership, the

terms of the original contract or membership are not changed by the camping resort operator.

(11) "Salesperson" means any individual, other than a camping ((~~club~~)) resort operator, who is engaged in obtaining commitments of persons to enter into camping ((~~club~~)) resort contracts by making a ((~~direct~~)) sales presentation to, or negotiating sales with, the persons, but does not include ((~~individuals~~)) members of a camping resort engaged in the referral of persons without making a ((~~direct~~)) sales presentation to the persons.

(12) "Affiliate" means any person who, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control ((~~with the person specified~~)) of a registrant or camping resort operator.

(13) "Campground" means real property owned or operated by a camping resort that is available for camping or outdoor recreation by purchasers of camping resort contracts.

(14) "Department" means the department of licensing.

(15) "Resale camping resort contract" means a camping resort contract offered or sold which is not the original offer, transfer, or sale of such contract, and not a forfeited contract being reoffered by an operator.

(16) "Start-up camping resort contract" means a camping resort contract that is being offered or sold for the first time or a forfeited contract being resold by a camping resort operator.

(17) "Blanket encumbrance" means any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale, or other material financing lien or encumbrance granted by the camping resort operator or affiliate that secures or evidences the obligation to pay money or to sell or convey any campgrounds made available to purchasers by the camping resort operator or any portion thereof and that authorizes, permits, or requires the foreclosure or other disposition of the campground affected.

(18) "Nondisturbance agreement" means an instrument by which the holder of a blanket encumbrance agrees that: (a) Its rights in any campground made available to purchasers, prior or subsequent to the agreement, by the camping resort operator shall be subordinate to the rights of purchasers from and after the recording of the instrument; (b) the holder and all successors and assignees, and any person who acquires the campground through foreclosure or by deed in lieu of foreclosure of such blanket encumbrance, shall take the campground subject to the use rights of purchasers; and (c) the holder or any successor acquiring the campground through the blanket encumbrance shall not discontinue use, or cause the campground to be used, in a manner which would materially prevent purchasers from using or occupying the campground in a manner contemplated by the purchasers' camping resort contracts. However, the holder has no obligation

or liability to assume the responsibilities or obligations of the camping resort operator under camping resort contracts.

Sec. 2. Section 2, chapter 69, Laws of 1982 and RCW 19.105.310 are each amended to read as follows:

Except in transactions exempt under ((~~RCW 19.105.320 (2) or (3)~~)) section 4 of this 1988 act, it is unlawful for any person to offer or sell a camping ((~~club~~)) resort contract in this state unless the camping ((~~club~~)) resort contract is registered and the operator or registrant has received a permit to market the registered contracts under this chapter.

Sec. 3. Section 3, chapter 69, Laws of 1982 and RCW 19.105.320 are each amended to read as follows:

(1) To apply for registration an applicant shall file with the director:

(a) An application for registration on such a form as may be prescribed by the director. The director may, by rule or order, prescribe the contents of the application to include information (including financial statements) reasonably necessary for the director to determine if the requirements of this chapter have been met, whether any of the ((~~events specified in RCW 19.105.380(7)~~)) grounds for which a registration may be suspended or denied have occurred, and what conditions, if any, should be imposed under RCW 19.105.340 ((~~or~~)), 19.105.350, or section 7 of this 1988 act in connection with the registration;

(b) Written disclosures, in any format the director is satisfied accurately, completely, and clearly communicates the required information, which include((~~s~~)):

(i) The name and address of the camping ((~~club~~)) resort applicant or operator and any material affiliate and, if the operator or registrant is other than a natural person, the identity of each person owning a ten percent or greater share or interest;

(ii) A brief description of the camping ((~~club operator's~~)) resort applicant's experience in the camping ((~~club~~)) resort business;

(iii) A brief description of the nature of the purchaser's title to, estate or interest in, or right ((~~or license~~)) to use the camping ((~~club~~)) resort property or facilities and((~~, if~~)) whether or not the purchaser will obtain an estate, title to, or interest in specified real property((~~, the legal description of the property~~));

(iv) The location and a brief description of the significant facilities and recreation services then available for use by purchasers and those which are represented to purchasers as being planned, together with a ((~~brief description of any significant~~)) statement whether any of the resort facilities or recreation services ((~~that are or~~)) will be available to nonpurchasers ((~~and the price to nonpurchasers therefor~~)) or the general public;

(v) A brief description of the camping ((~~club's~~)) resort's ownership of or other right to use the camping ((~~club~~)) resort properties or facilities represented to be available for use by purchasers, together with a brief description of any material encumbrance, the duration of any lease, real estate contract, license, franchise, reciprocal agreement, or other agreement entitling the camping ((~~club~~)) resort applicant or operator to use the property, and any material provisions of the agreements which restrict a purchaser's use of the property;

(vi) ((~~A brief statement or summary of what required material land use permits have not been obtained for each camping club~~)) A summary of any local or state health, environmental, subdivision, or zoning requirements or permits that have not been complied with for the resort property or facility represented to purchasers as in or planned for the campground;

(vii) A ((~~summary or~~)) copy of the articles, by-laws, rules, restrictions, or covenants regulating the purchaser's use of each property, the facilities located on each property, and any recreation services provided((~~; including~~));

(viii) A statement of whether and how the articles, declarations, by-laws, rules, restrictions, or covenants used in structuring the project may be changed and whether and how the members may participate in the decision on the changes;

((~~(viii)~~)) (ix) A brief description of all payments of a purchaser under a camping ((~~club~~)) resort contract, including initial fees and any further fees, charges, or assessments, together with any provisions for changing the payments;

((~~(ix)~~)) (x) A description of any restraints on the transfer of camping ((~~club~~)) resort contracts;

((~~(x)~~)) (xi) A brief description of the policies relating to the availability of camping sites and ((~~whether~~)) conditions under which reservations are required and the availability of the sites to guests and family members;

((~~(xi) A brief description~~)) (xii) A disclosure covering the right of the camping ((~~club operator's right to change~~)) resort operator or the registrant and their heirs, assigns, and successors in interest to change, substitute, or withdraw from use all or a portion of the camping ((~~club~~)) resort properties or facilities and the extent to which the operator is obligated to replace camping ((~~club~~)) resort facilities or properties withdrawn;

((~~(xii)~~)) (xiii) A brief description of any grounds for forfeiture of a purchaser's camping ((~~club~~)) resort contract; ((~~and~~

~~(xiii) A copy of the camping club contract form~~))

(xiv) A statement concerning the effect upon membership camping resort contracts if there is a foreclosure affecting any of the operator's properties, a bankruptcy, or creditor or lienholder action affecting the operator or the camping resort properties; and

(xv) Any other information deemed necessary by the department for the protection of the public health, safety, and welfare;

(c) The prescribed registration fees;

(d) A statement of the total number of camping ((~~club~~)) resort contracts then in effect, both within and without this state; and a statement of the total number of camping ((~~club~~)) resort contracts intended to be sold, both within and without this state, together with a commitment that the total number will not be exceeded unless disclosed by post-effective amendment to the registration as provided in RCW 19.105.420; ((~~and~~

~~(e) Any other material information the director may, by rule or order, require for the protection of the purchasers.~~

~~(2) The following transactions are exempt from registration:~~

~~(a) An offer, sale, or transfer by any one person of not more than one camping club contract for any given camping club in any twelve-month period, but any agent for the person is not exempt from registration as a camping club salesperson under this chapter if he receives a commission or similar payment for the sale or transfer;~~

~~(b) An offer or sale by a government or governmental agency; and~~

~~(c) A bona fide pledge of a camping club contract.~~

~~(3) The director may, by rule or order, exempt any person from any or all requirements of this chapter if the director finds the requirements unnecessary for the protection of purchasers and the offering of camping club contracts is essentially noncommercial~~))

(e) Copies or prototypes of all camping resort contracts, and addendum thereto, and membership certificates, deeds, leases, or other evidences of interest, title, or estate, to be registered;

(f) An irrevocable consent to service of process on the director or the department, effective for the term of the statute of limitations covering the last sale in this state of a camping resort contract by the applicant or operator; and

(g) Any other material information the director deems necessary for the protection of the public health, welfare, or safety, or to effectively conduct an examination of an application.

(2) The director may waive for an applicant any of the information required in this section if it is not needed for the protection of the public health and welfare.

NEW SECTION. Sec. 4. A new section is added to chapter 19.105 RCW to read as follows:

(1) The following transactions are exempt from registration under this chapter:

(a) An offer or sale by a government or governmental agency;

(b) A bona fide pledge of a camping resort contract; and

(c) Offerings and dispositions of resale camping resort contracts by purchasers thereof on their own behalf or by third parties brokering on behalf of purchasers, other than resale contracts forfeited by or placed into an operator's sale inventory.

(2) The director may, by rule or order, exempt any person, wholly or partially, from any or all requirements of this chapter if the director finds the requirements are not necessary for the protection of the public health, safety, and welfare.

Sec. 5. Section 4, chapter 69, Laws of 1982 and RCW 19.105.330 are each amended to read as follows:

Unless an order denying effectiveness under RCW 19.105.380 is in effect, or unless declared effective by order of the director prior thereto, the application for registration shall automatically become effective upon the expiration of the ((~~fifteenth~~)) twentieth full business day following a filing with the director in complete and proper form, but an applicant may consent to the delay of effectiveness until such time as the director may by order declare registration effective or issue a permit to market.

(2) An application for registration, renewal of registration, or amendment is not in completed form and shall not be deemed a statutory filing until such time as all required fees, completed application forms, and the information and documents required pursuant to RCW 19.105.320(1) and departmental rules have been filed.

It is the operator's responsibility to see that required filing materials and fees arrive at the appropriate mailing address of the department. Within seven business days, excluding the date of receipt, of receiving an application or initial request for registration and the filing fees, the department shall notify the applicant of receipt of the application and whether or not the application is complete and in proper form. If the application is incomplete, the department shall at the same time inform the applicant what additional documents or information is required.

If the application is not in a completed form, the department shall give immediate notice to the applicant. On the date the application is complete and properly filed, the statutory period for an in-depth examination of the filing, prescribed in subsection (1) of this section, shall begin to run, unless the applicant and the department have agreed to a stay of effectiveness or the department has issued a denial of the application or a permit to market.

NEW SECTION. Sec. 6. A new section is added to chapter 19.105 RCW to read as follows:

Applications, consents to service, all affidavits required in connection with applications, and all final permits to market shall be signed by the operator, unless a trustee or power of attorney specifically granted such powers has signed on behalf of the operator. If a power of attorney or trustee signature is used, the filing shall contain a copy of the authorization, power of attorney, or trustee authorization.

NEW SECTION. Sec. 7. A new section is added to chapter 19.105 RCW to read as follows:

(1) With respect to every campground located within the state which was not made available to purchasers of camping resort contracts prior to the effective date of this section, and with respect to any new blanket encumbrance placed against any campground in this state or any prior blanket encumbrance against any campground in this state with respect to which the underlying obligation is refinanced after the effective date of this section, the camping resort operator shall not represent any such campground to be available to purchasers of its camping resort contracts until one of the following events has occurred with regard to each such blanket encumbrance:

(a) The camping resort operator obtains and records as covenants to run with the land a nondisturbance agreement from each holder of the blanket encumbrance. The nondisturbance agreement shall be executed by the camping resort operator and by each holder of the blanket encumbrance and shall include the provisions set forth in RCW 19.105.300(18) and the following:

(i) The instrument may be enforced by individual purchasers of camping resort contracts. If the camping resort operator is not in default under its obligations to the holder of the blanket encumbrance, the agreement may be enforced by the camping resort operator.

(ii) The agreement shall be effective as between each purchaser and the holder of the blanket encumbrance despite any rejection or cancellation of the purchaser's contract during any bankruptcy proceedings of the camping resort operator.

(iii) The agreement shall be binding upon the successors in interest of both the camping resort operator and the holder of the blanket encumbrance.

(iv) A holder of the blanket encumbrance who obtains title or possession or who causes a change in title or possession in a campground by foreclosure or otherwise and who does not continue to operate the campground upon conditions no less favorable to members than existed prior to the change of title or possession shall either:

(A) Offer the title or possession to an association of members to operate the campground; or

(B) Obtain a commitment from another entity which obtains title or possession to undertake the responsibility of operating the campground.

(b) The camping resort operator posts a bond or irrevocable letter of credit with the director in a form satisfactory to the director in the amount of the aggregate principal indebtedness remaining due under the blanket encumbrance.

(c) The camping resort operator delivers an encumbrance trust agreement in a form satisfactory to the director, as provided in subsection (2) of this section.

(d) The camping resort operator delivers other financial assurances reasonably acceptable to the director.

(2) With respect to any campground located within the state other than a campground described in subsection (1) of this section, the camping resort operator shall not represent the campground to be available to purchasers of camping resort contracts after the effective date of this section until one of the following events has occurred with regard to each blanket encumbrance:

(a) The camping resort operator obtains and records a nondisturbance agreement to run with the land pursuant to subsection (1) of this section from each holder of the blanket encumbrance.

(b) The camping resort operator posts a surety bond or irrevocable letter of credit with the director in a form satisfactory to the director in the amount of the aggregate principal indebtedness remaining due under the blanket encumbrance.

(c) The camping resort operator delivers to the director, in a form satisfactory to the director, an encumbrance trust agreement among the camping resort operator, a trustee (which can be either a corporate trustee licensed to act as a trustee under Washington law, licensed escrow agent, or a licensed attorney), and the director.

(d) The camping resort operator delivers evidence to the director that any financial institution that has made a hypothecation loan to the camping resort operator (the "hypothecation lender") shall have a lien on, or security interest in, the camping resort operator's interest in the campground, and the hypothecation lender shall have executed and recorded a nondisturbance agreement in the real estate records of the county in which the campground is located. Each person holding an interest in a blanket encumbrance superior to the interest held by the hypothecation lender shall have executed and recorded an instrument stating that such person shall give the hypothecation lender notice of, and at least thirty days to cure, any default under the blanket encumbrance before the person commences any foreclosure action affecting the campground. For the purposes of this subsection, a hypothecation loan to a camping resort operator is a loan or line of credit secured by the camping resort contracts receivable arising from the sale of camping resort contracts by the camping resort operator, which exceeds in the aggregate all outstanding indebtedness secured by blanket encumbrances superior to the interest held by the hypothecation lender.

(e) The camping resort operator delivers other financial assurances reasonably acceptable to the director.

(3) Any camping resort operator which does not comply at all times with subsection (1) or (2) of this section with regard to any blanket encumbrance in connection with any applicable campground is prohibited from offering any camping resort contracts for sale in Washington during the period of noncompliance.

Sec. 8. Section 5, chapter 69, Laws of 1982 and RCW 19.105.340 are each amended to read as follows:

(1) If the director finds that the applicant or registrant ((~~does not have adequate financial and other resources so that there is a reasonable likelihood that it will not be able to provide or continue to provide the anticipated properties, facilities, or recreation services represented to purchasers, the director shall require impounding the funds from camping club contract sales until sufficient funds have been impounded to alleviate the inadequacy. The director may, if he finds it reasonable and necessary to the business operations of the applicant or registrant and not inconsistent with the protection of purchasers or owners of camping club contracts, provide for release to the applicant or registrant of all or a portion of the impounded funds~~)) has not by other means assured future availability to and quiet enjoyment of the campgrounds and facilities, as required under this chapter, the director may, notwithstanding the provisions of section 7 of this 1988 act, require impoundment of the funds or membership receivables, or both, from camping resort contract sales, including the impoundment of periodic dues or assessments required of purchasers under the contracts, or provide other assurances acceptable to the director, until sufficient funds have been impounded or arrangements made to alleviate the inadequacy. The director may, upon finding it reasonable and necessary, for compliance with sections 7 and 12 of this 1988 act, and not inconsistent with the protection of purchasers or owners of camping resort contracts, provide for release to the applicant, registrant, or others of all or a portion of the impounded funds, membership receivables, or other assets in the impound. The director may take appropriate measures to assure that the impounded funds will be applied as ((~~contemplated by the director. If the funds are not released from impound within a reasonable time, the funds remaining in impound shall be returned to the purchasers upon the order of the director~~)) required by this chapter.

(2) Funds placed in impounds under this section or reserve accounts under RCW 19.105.350 are not subject to lien, attachment, or the possession of lenders or creditors of the operator, trustees in bankruptcy, receivers, or other third parties. In instances of bankruptcy, foreclosure, attachment, or other contingency where the ownership or beneficiary status of funds in depositories, or the receivables and funds to be collected from receivables, may be at issue, the purchasers of contracts under this chapter, as a class, shall be deemed the beneficiary. No individual purchaser or group of purchasers, other than the purchasers as a class, have any right to possession,

attachment, lien, or right of partition of funds or receivables in the impound or reserve.

(3) It is unlawful for an operator or other person to assign, hypothecate, sell, or pledge any contract or other asset placed into an impound or reserve under this chapter without the express written approval of the director or a court of competent jurisdiction.

NEW SECTION. Sec. 9. A new section is added to chapter 19.105 RCW to read as follows:

Persons licensed under chapter 18.85 RCW are exempt from the camping resort salesperson registration requirements of this chapter for camping resort contracts offered through the licensed brokerage.

Sec. 10. Section 6, chapter 69, Laws of 1982 and RCW 19.105.350 are each amended to read as follows:

(1) If the purchaser will own or acquire title to specified real property or improvements to be acquired by the camping ((~~club~~)) resort, the director may by order require to the extent necessary to protect the interests of the purchasers or owners of camping ((~~club~~)) resort contracts, that an appropriate portion of the proceeds paid under those camping ((~~club~~)) resort contracts be ((~~set aside~~)) placed in a separate reserve fund to be set aside and applied toward the purchase price of the real property ((~~or~~)), improvements, or facilities.

(2) The director may deny or suspend a registration in which the registrant is advertising or offering annual or periodic dues or assessments by members that the director finds would result in the registrant's future inability to fund operating costs.

Sec. 11. Section 7, chapter 69, Laws of 1982 and RCW 19.105.360 are each amended to read as follows:

The camping ((~~club~~)) resort operator or other registrant of offerings of camping resort contracts shall file with the director at least five business days prior to the first use thereof in the state of Washington (1) the proposed text of all advertisements and sales promotion literature, (2) its proposed form of camping ((~~club~~)) resort contract, and (3) the text of any supplements or amendments to the written disclosures required to be furnished prospective purchasers under RCW 19.105.370: PROVIDED, That if the text in lieu of definitive copies of any materials are filed, definitive copies shall be filed with the director within five business days following the date of first use of the materials.

NEW SECTION. Sec. 12. A new section is added to chapter 19.105 RCW to read as follows:

(1) It is unlawful for a camping resort operator or other person, in connection with an advertisement or offer for sale of a camping resort contract in this state, to promise or offer a free gift, award, prize, or other item

of value if the operator or person knows or has reason to know that the offered item is unavailable in a sufficient quantity based upon the reasonably anticipated response to the advertisement or offer.

(2) A person who responds to an advertisement or offer in the manner specified, who performs all stated requirements, and who meets the qualifications disclosed shall promptly receive the item offered subject to the following exception. If the camping resort operator fails to provide the item because of insufficient supply or unacceptable quality not reasonably foreseeable by the camping resort operator, the operator shall provide, at the operator's option, a rain check for the item offered, its cash equivalent, a substitute item of greater retail value, or a rain check for such substitute item. If a rain check is provided, the camping resort operator shall, within thirty days, deliver the item, its cash equivalent, or a substitute item to the recipient's address without additional cost or requirement to the recipient.

(3) The director may, upon making a determination that a violation of subsection (1) or (2) of this section has occurred, require any person, including an operator or other registrant found in violation, who continues, or proposes to continue, offering a free gift, award, prize, or other item of value in this state for purposes of advertising a camping resort or inducing persons to purchase a camping resort contract, to provide evidence of the ability to deliver on promised gifts, prizes, or awards by means such as bonds, irrevocable letters of credit, cash deposits, or other security arrangements acceptable to the director.

(4) The director may require that any fees or funds of any description collected in advance from persons for purposes of obtaining promised gifts, awards, prizes, or other items of value, be placed in trust in a depository in this state until after delivery of the promised gift, prize, award, or other item of value.

(5) Operators or other registrants or persons promising gifts, prizes, awards, or other items of consideration as part of a membership referral program shall be considered to be offering or selling promotional programs.

Sec. 13. Section 8, chapter 69, Laws of 1982 and RCW 19.105.370 are each amended to read as follows:

Except in a transaction exempt under ((~~RCW 19.105.320 (2) or (3), any person who sells a camping club contract~~)) section 4 of this 1988 act, any operator who offers or sells camping resort contracts in this state shall provide the prospective purchaser with the written disclosures required to be filed under RCW 19.105.320(1)(b) in a form that is materially accurate and complete before the prospective purchaser signs a camping ((~~club~~)) resort contract or gives any item of value for the purchase of a camping ((~~club~~)) resort contract. The department may provide its own disclosures, supplementing those of the operator, in any format it deems appropriate. The department shall not be held liable for any alleged failure to disclose information or for deficiencies in the content of its disclosures when such

disclosures are based upon information provided by the operator or a registrant.

Sec. 14. Section 9, chapter 69, Laws of 1982 and RCW 19.105.380 are each amended to read as follows:

((~~The effectiveness of an application or registration~~)) (1) A registration or an application for registration of camping resort contracts or renewals thereof may by order be denied, suspended, or revoked ((~~or a fine of not more than one thousand dollars imposed by the director;~~)) if the director finds that ((~~the order is for the protection of purchasers or owners of camping club contracts and that:~~

(~~1) The camping club operator's advertising or sales techniques or trade practices~~)):

(a) The advertising, sales techniques, or trade practices of the applicant, registrant, or its affiliate or agent have been or are deceptive, false, or misleading;

(((~~2) The camping club operator~~)) (b) The applicant or registrant has failed to file copies of ((~~its advertisements or promotion literature or its~~)) the camping ((~~club~~)) resort contract form under RCW 19.105.360;

(((~~3) The camping club operator~~)) (c) The applicant, registrant, or affiliate has failed to comply with any provision of this chapter ((~~or~~)), the rules adopted or the conditions of a permit granted under this chapter ((~~that materially affect or would affect the rights of purchasers, prospective purchasers, or owners of camping club contracts or the administration of this chapter;~~

(~~4) The camping club operator is not financially responsible or has insufficient capital, as the director may find under RCW 19.105.340, to warrant its offering or selling camping club contracts;~~

(~~5) The camping club operator's~~)), or a stipulation or final order previously entered into by the operator or issued by the department under this chapter;

(d) The applicant's, registrant's, or affiliate's offering of camping ((~~club~~)) resort contracts has worked or would work a fraud upon purchasers or owners of camping ((~~club~~)) resort contracts;

(((~~6) The camping club operator's application or any amendment thereto is incomplete in any material respect;~~

(~~7~~))) (e) The camping ((~~club~~)) resort operator or any officer, director, or ((~~other~~)) affiliate of the camping ((~~club~~)) resort operator has been within the last five years convicted of or pleaded nolo contendre to any misdemeanor or felony involving conversion, embezzlement, theft, fraud, or dishonesty, has been enjoined from or had any civil penalty assessed for ((~~or~~)) a finding of dishonest dealing or fraud in a civil suit, or been found to have engaged in any violation of any act designed to protect consumers, or has been engaged in dishonest practices in any industry involving sales to consumers;

((~~(8) The camping club operator~~)) (f) The applicant or registrant has represented or is representing to purchasers in connection with the offer or sale of a camping ((~~club~~)) resort contract that ((~~any~~)) a camping ((~~club~~)) resort property, facility, amenity camp site, or other development is planned ((~~without reasonable grounds to believe that the camping club property, facility, camp site, or other development will be completed within a reasonable time; or~~

~~(9)~~)), promised, or required, and the applicant or registrant has not provided the director with a security or assurance of performance as required by this chapter;

(g) The applicant or registrant has not provided or is no longer providing the director with the necessary security arrangements to assure future availability of titles or properties as required by this chapter or agreed to in the permit to market;

(h) The applicant or registrant is or has been employing unregistered salespersons or offering or proposing a membership referral program not in compliance with this chapter;

(i) The applicant or registrant has breached any escrow, impound, reserve account, or trust arrangement or the conditions of an order or permit to market required by this chapter;

(j) The applicant or registrant has breached any stipulation or order entered into in settlement of the department's filing of a previous administrative action;

(k) The applicant or registrant has filed or caused to be filed with the director any document or affidavit, or made any statement during the course of a registration or exemption procedure with the director, that is materially untrue or misleading;

(l) The applicant or registrant has engaged in a practice of failing to provide the written disclosures to purchasers or prospective purchasers as required under this chapter;

(m) The applicant, registrant, or any of its officers, directors, or employees, if the operator is other than a natural person, have wilfully done, or permitted any of their salespersons or agents to do, any of the following:

(i) Engage in a pattern or practice of making untrue or misleading statements of a material fact, or omitting to state a material fact;

(ii) Employ any device, scheme, or artifice to defraud purchasers or members;

(iii) Engage in a pattern or practice of failing to provide the written disclosures to purchasers or prospective purchasers as required under this chapter;

(n) The applicant or registrant has failed to provide a bond, letter of credit, or other arrangement to assure delivery of promised gifts, prizes, awards, or other items of consideration, as required under this chapter, breached such a security arrangement, or failed to maintain such a security

arrangement in effect because of a resignation or loss of a trustee, impound, or escrow agent;

(o) The applicant or registrant has engaged in a practice of selling contracts using material amendments or codicils that have not been filed or are the consequences of breaches or alterations in previously filed contracts;

(p) The applicant or registrant has engaged in a practice of selling or proposing to sell contracts in a ratio of contracts to sites available in excess of that filed in the affidavit required by this chapter;

(q) The camping ((~~club~~)) resort operator has withdrawn, ((~~or~~)) has the right to withdraw, or is proposing to withdraw from use all or any ((~~substantial camping or recreation~~)) portion of any camping ((~~club~~)) resort property devoted to the camping ((~~or recreational activities~~)) resort program, unless ((~~(a)~~)):

(i) Adequate provision has been made to provide within a reasonable time thereafter a substitute property in the same general area that is at least as desirable for the purpose of camping and outdoor recreation((~~; (b)~~));

(ii) The property is withdrawn because, despite good faith efforts by the camping ((~~club~~)) resort operator, a nonaffiliate of the camping ((~~club~~)) resort has exercised a right of withdrawal from use by the camping ((~~club~~)) resort (such as withdrawal following expiration of a lease of the property to the camping ((~~club~~)) resort) and the terms of the withdrawal right have been disclosed in writing to all purchasers at or prior to the time of any sales of camping ((~~club~~)) resort contracts after the camping ((~~club~~)) resort has represented to purchasers that the property is or will be available for camping or recreation purposes((~~; (c)~~));

(iii) The specific date upon which the withdrawal becomes effective has been disclosed in writing to all purchasers ((~~at or~~)) and members prior to the time of any sales of camping ((~~club~~)) resort contracts after the camping ((~~club~~)) resort has represented to purchasers that the property is or will be available for camping or recreation purposes((~~; (d)~~));

(iv) The rights of ((~~the purchaser or~~)) members and owners of the camping ((~~club~~)) resort contracts under the express terms of the camping ((~~club~~)) resort contract have expired, or have been specifically limited, upon the lapse of a stated or determinable period of time, ((~~or (e)~~)) and the director by order has found that the withdrawal is not otherwise inconsistent with the protection of purchasers or ((~~owners of camping club contracts~~)) the desire of the majority of the owners of camping resort contracts, as expressed in their previously obtained vote of approval;

(r) The format, form, or content of the written disclosures provided therein is not complete, full, or materially accurate, or statements made therein are materially false, misleading, or deceptive;

(s) The applicant or registrant has failed or declined to respond to any subpoena lawfully issued and served by the department under this chapter;

(t) The applicant or registrant has failed to file an amendment for a material change in the manner or at the time required under this chapter or its implementing rules;

(u) The applicant or registrant has filed voluntarily or been placed involuntarily into a federal bankruptcy or is proposing to do so; or

(v) A camping resort operator's rights or interest in a campground has been terminated by foreclosure or the operations in a camping resort have been terminated in a manner contrary to contract provisions.

(2) Any applicant or registrant who has violated subsection (1) (a), (b), (c), (f), (h), (i), (j), (l), (m), or (n) of this section may be fined by the director in an amount not to exceed one thousand dollars for each such violation. Proceedings seeking such fines shall be held in accordance with chapter 34.04 RCW and may be filed either separately or in conjunction with other administrative proceedings to deny, suspend, or revoke registrations authorized under this chapter. Fines collected from such proceedings shall be deposited in the state general fund.

(3) An operator, registrant, or applicant against whom administrative or legal proceedings have been filed shall be responsible for and shall reimburse the state, by payment into the general fund, for all administrative and legal costs actually incurred by the department in issuing, processing, and conducting any such administrative or legal proceeding authorized under this chapter that results in a final legal or administrative determination of any type or degree in favor of the department.

(4) No order may be entered under this section without appropriate prior notice to the applicant or registrant of opportunity for a hearing and written findings of fact and conclusions of law, except that the director may by order summarily deny an application for registration or renewal under any of the above subsections and may summarily suspend or revoke a registration under subsection((s)) (1)((~~, (3), (5), or (6)~~)) (d), (f), (g), (h), (i), (k), (l), (m), and (n) of this section. No fine may be imposed by summary order ((~~or by reason of violation of subsection (4) or (7) of this section. If no hearing is requested within fifteen days of receipt of notice of opportunity for a hearing, and none is ordered by the director, the director may enter the order. Upon entry of a summary order, the applicant or registrant shall have an opportunity within ten days entry of the summary order to appear before the director and show cause why the summary order should not remain in effect. If good cause is shown, the director shall vacate the summary order. If good cause is not shown, the summary order shall remain in effect and the director shall give notice of opportunity for hearing and within fifteen days of the receipt of a written request the matter shall be set down for hearing within a time that is reasonable under the circumstances. Any fine imposed under this section shall be deposited in the general fund of the state treasurer~~)).

(5) The proceedings to deny an application or renewal, suspend or revoke a registration or permit, whether summarily or otherwise, or impose a fine shall be held in accordance with chapter 34.04 RCW.

(6) The director may enter into assurances of discontinuance in lieu of issuing a statement of charges or a cease and desist order or conducting a hearing under this chapter. The assurances shall consist of a statement of the law in question and an agreement not to violate the stated provision. The applicant or registrant shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violating or breaching an assurance under this subsection is grounds for suspension or revocation of registration or imposition of a fine.

Sec. 15. Section 10, chapter 69, Laws of 1982 and RCW 19.105.390 are each amended to read as follows:

Any camping ((~~club~~)) resort contract may be canceled at the option of the purchaser, if the purchaser sends notice of the cancellation by certified mail (return receipt requested) to the camping ((~~club~~)) resort operator at the address contained in the camping resort contract and if the notice is ((~~posted~~)) postmarked not later than midnight of the third business day following the day on which the contract is signed. In addition to this cancellation right, any purchaser who signs a camping ((~~club~~)) resort contract of any description required to be registered with the department without ((~~inspecting a camping club property or facility with camping sites or proposed camping sites may by written notice by certified mail (return receipt requested) cancel the camping club~~)) having received the written disclosures required by this chapter has cancellation rights until three business days following eventual receipt of the written disclosures. Purchasers shall request cancellation of contracts by ((~~posting~~)) sending the notice of cancellation by certified mail (return receipt requested), postmarked not later than midnight of the ((~~sixth~~)) third business day following the day on which the contract is signed ((~~if the purchaser makes such an inspection before sending the notice~~)) or the day on which the disclosures were actually received, whichever event is later to the camping resort operator at the address contained in the camping resort contract. In computing the number of business days, the day on which the contract was signed shall not be included as a "business day," nor shall Saturday, Sunday, or legal holidays be included. ((~~The camping club operator shall promptly refund any money or other consideration paid by the purchaser upon~~)) Within three business days following receipt of timely and proper notice of cancellation ((~~by~~)) from the purchaser, the camping resort operator shall provide evidence that the contract has been cancelled. Thereafter, any money or other consideration paid by the purchaser shall be promptly refunded.

Every camping ((~~club~~)) resort contract, other than those being offered and registered as resales, shall include the following statement in at least

ten-point bold-face type immediately prior to the space for the purchaser's signature:

"Purchaser's right to cancel: You may cancel this contract without any cancellation fee or other penalty, or stated reason for doing so, by sending notice of cancellation by certified mail, return receipt requested, to ..... (insert name and address of camping ((~~club~~)) resort operator). The notice must be postmarked by midnight of the third business day following the day on which the contract is signed. In computing the three business days, the day on which the contract is signed shall not be included as a "business day," nor shall Saturday, Sunday, or legal holidays be included."

If the purchaser has not inspected a camping ((~~club~~)) resort property or facility at which camping ((~~club~~)) resort sites are located or planned, the notice must contain the following additional language:

"If you sign this contract without having ((~~first~~)) inspected a property at which camping sites are located or planned, you may ((~~also~~)) cancel this contract by giving this notice within six (6) business days following the day on which you signed ((~~if you inspect such a property prior to sending the notice~~)) the contract."

Sec. 16. Section 11, chapter 69, Laws of 1982 and RCW 19.105.400 are each amended to read as follows:

Any camping ((~~club~~)) resort contract entered into in violation of ((~~RCW 19.105.310 or 19.105.370~~)) this chapter may be voided by the purchaser and the purchaser's entire consideration recovered at the option of the purchaser, but no suit under this section may be brought after two years from the date the contract is signed.

NEW SECTION. Sec. 17. A new section is added to chapter 19.105 RCW to read as follows:

(1) The legislature recognizes the proprietary interest camping resort operators have in purchaser lists. The legislature also recognizes that purchasers of camping resort contracts have a legitimate interest in being able to contact other resort purchasers for the purpose of forming a members' association. In balancing these competing interests, the legislature believes that purchaser lists can be made available to camping resort purchasers with reasonable restrictions on the dissemination of those lists.

(2) Upon request of a purchaser, the camping resort operator shall provide to the purchaser a list of the names, addresses, and unit, site, or purchaser number of all purchasers. The camping resort operator may charge for the reasonable costs for preparing the list. The operator shall require the purchaser to sign an affidavit agreeing not to use the list for any commercial purpose.

(3) It is a violation of this chapter and chapter 19.86 RCW for any person to use a membership list for commercial purposes unless authorized to do so by the operator.

(4) It is a violation of this chapter and chapter 19.86 RCW for a camping resort operator to fail to provide a list of purchasers as provided in this section.

NEW SECTION. Sec. 18. A new section is added to chapter 19.105 RCW to read as follows:

Applicants or registrants under this chapter shall pay fees determined by the director as provided in RCW 43.24.086. The fees shall be prepaid and the director may determine fees for the following activities or events:

(1) A fee for the initial application and an additional fee for each camping resort contract registered;

(2) Renewals of camping resort registrations and an additional fee for each additional camping resort contract registered;

(3) An initial and annual fee for processing and administering any required impound, trust, reserve, or escrow arrangement and security arrangements for such programs;

(4) The review and processing of advertising or promotional materials;

(5) Registration and renewal of registrations of salespersons;

(6) The transfer of a salesperson's permit from one operator to another;

(7) Administering examinations for salespersons;

(8) Amending the registration or the public offering statement;

(9) Conducting site inspections;

(10) Granting exemptions under this chapter;

(11) Penalties for registrants in any situation where a registrant has failed to file an amendment to the registration or the public offering statement in a timely manner for material changes, as required in this chapter and its implementing rules.

Sec. 19. Section 13, chapter 69, Laws of 1982 and RCW 19.105.420 are each amended to read as follows:

A registration of camping ((~~club~~)) resort contracts shall be effective for a period of one year and may, upon application, be renewed for successive periods of one year each, unless the director prescribes a shorter period for a permit or registration. A camping ((~~club~~)) resort contract registration ((~~may~~)) shall be amended ((~~at any time to~~)) if there is to be an increase in inventory or consolidation to the number of camping ((~~club~~)) resort contracts registered, or ((~~for any other reason, by the filing of an amended application therefor, which amended application~~)) in instances in which new contract forms are to be offered. Consolidations, new contract forms, the adding of resorts to the program, or amendments for material changes shall become effective in the manner provided by RCW 19.105.330. The written disclosures required to be furnished prospective purchasers under RCW 19-.105.370 shall be supplemented by amendment request in writing as necessary to keep the required information reasonably current((~~, and the written supplements~~)) and reflective of material changes. Amendments shall be filed

with the director as provided in RCW 19.105.360. The foregoing notwithstanding, however, the camping ((~~club~~)) resort operator or registrant shall file an amendment to the ((~~application for~~)) registration disclosing any event which will have a material effect on the conduct of the operation of the camping ((~~club~~)) resort, the financial condition of the camping resort, or the future availability of the camping resort properties to purchasers. The amendment shall be filed within thirty days following the event. The amendment shall be treated as an original application for registration, except that until the director has acted upon the application for amendment ((~~or until the amendment becomes effective under RCW 19.105.330 by lapse of time;~~)) the applicant's registration shall continue to be deemed effective for the purposes of RCW 19.105.310.

Any permit to sell camping ((~~club~~)) resort memberships issued prior to November 1, 1982, shall be deemed a camping ((~~club~~)) resort registration subject to the renewal provisions of this chapter upon the anniversary date of the issuance of the original permit.

Sec. 20. Section 14, chapter 69, Laws of 1982 and RCW 19.105.430 are each amended to read as follows:

Unless the transaction is exempt under ((~~RCW 19.105.320 (2) or (3)~~)) section 4 of this 1988 act, it is unlawful for any person to act as a camping ((~~club~~)) resort salesperson in this state without first registering under this chapter as a salesperson or being licensed as a salesperson under chapter 18.85 RCW or a broker licensed under that chapter.

Sec. 21. Section 15, chapter 69, Laws of 1982 and RCW 19.105.440 are each amended to read as follows:

(1) A salesperson may apply for registration by filing in a complete and readable form with the director an application form provided by the director which includes the following ((~~information~~)):

(a) A statement whether or not the applicant within the past five years has been convicted of, pleaded nolo contendre to, or been ordered to serve probation for a period of a year or more for any misdemeanor or felony involving conversion, embezzlement, theft, fraud, or dishonesty or ((~~whether or not~~)) the applicant has been enjoined from, had any civil penalty assessed for, or been found to have engaged in any violation of any act designed to protect consumers; ((~~and~~))

(b) A statement fully describing the applicant's employment history for the past five years and whether or not any termination of employment during the last five years was ((~~occasioned by~~)) the result of any theft, fraud, or act of dishonesty;

(c) A consent to service comparable to that required of operators under this chapter; and

(d) Required filing fees.

(2) The director may by order deny, suspend, or revoke a camping resort salesperson's registration or application for registration under this

chapter or the ((~~salesperson's registration~~)) person's license or application under chapter 18.85 RCW, or impose a fine on such persons not exceeding two hundred dollars per violation, if the director finds that the order is necessary for the protection of purchasers or owners of camping ((~~club~~)) resort contracts and the applicant or registrant ((~~within the past five years (a) has been convicted of any misdemeanor or felony involving theft, fraud, or dishonesty or has been enjoined from, had any civil penalty assessed for, or been found to have engaged in any violation of any act designed to protect consumers, (b) has violated any provision of this chapter, or (c) has engaged in unethical or dishonest practices in any industry involving sales to consumers~~)) is guilty of:

(a) Obtaining registration by means of fraud, misrepresentation, or concealment, or through the mistake or inadvertence of the director;

(b) Violating any of the provisions of this chapter or any lawful rules adopted by the director pursuant thereto;

(c) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses. For the purposes of this section, "being convicted" includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(d) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication, or distribution of false statements, descriptions, or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions, or promises purport to be made or to be performed by either the applicant or registrant and the applicant or registrant then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions, or promises;

(e) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the work, representation, or conduct of the applicant or registrant;

(f) Failing, upon demand, to disclose to the director or the director's authorized representatives acting by authority of law any information within his or her knowledge or to produce for inspection any document, book or record in his or her possession, which is material to the salesperson's registration or application for registration;

(g) Continuing to sell camping resort contracts in a manner whereby the interests of the public are endangered, if the director has, by order in writing, stated objections thereto;

(h) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any

court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(i) Misrepresentation of membership in any state or national association; or

(j) Discrimination against any person in hiring or in sales activity on the basis of race, color, creed, or national origin, or violating any state or federal antidiscrimination law.

(3) No order may be entered under this section without appropriate prior notice to the applicant or registrant of opportunity for a hearing and written findings of fact and conclusions of law, except that the director may by order summarily deny an application for registration under this ((~~subsection. If no hearing is requested within fifteen days of receipt of notice of opportunity for a hearing, and none is ordered by the director, the director may enter the order. Upon entry of a summary order, the applicant shall have an opportunity within ten days of entry of the summary order to appear before the director and show cause why the summary order should not remain in effect. If good cause is shown, the director shall vacate the summary order. If good cause is not shown, the summary order shall remain in effect and the director shall give notice of opportunity for hearing and within fifteen days of the receipt of a written request the matter shall be set down for hearing within a time that is reasonable under the circumstances~~)) section.

(((~~3~~))) (4) The proceedings to deny an application or renewal, suspend or revoke a registration or permit, whether summarily or otherwise, or impose a fine shall be held in accordance with chapter 34.04 RCW.

(5) The director, subsequent to any complaint filed against a salesperson or pursuant to an investigation to determine violations, may enter into stipulated assurances of discontinuances in lieu of issuing a statement of charges or a cease and desist order or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement not to violate the stated provision. The salesperson shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for a disciplinary action, a suspension of registration, or a fine not to exceed one thousand dollars.

(6) The director may by rule require such further information or conditions for registration as a camping ((~~club~~)) resort salesperson, including qualifying examinations and fingerprint cards prepared by authorized law enforcement agencies, as the director deems necessary to protect the interests of purchasers.

(((~~4~~))) (7) Registration as a camping ((~~club~~)) resort salesperson shall be effective for a period of one year unless the director specifies otherwise or the salesperson transfers employment to a different registrant. Registration as a camping ((~~club~~)) resort salesperson shall be renewed annually, or at

the time of transferring employment, whichever occurs first, by the filing of a form prescribed by the director for that purpose. ((~~Unless an order denying effectiveness under subsection (2) of this section is in effect, or unless declared effective by order of the director prior thereto, the application for registration or renewal shall automatically become effective upon the expiration of the fifteenth full business day following filing with the director, but an applicant or registrant may consent to the delay of effectiveness until such time as the director may by order declare registration or renewal effective.~~))

(8) It is unlawful for a registrant of camping resort contracts to employ or a person to act as a camping resort salesperson covered under this section unless the salesperson has in effect with the department and displays a valid registration in a conspicuous location at each of the sales offices at which the salesperson is employed. It is the responsibility of both the operator and the salesperson to notify the department when and where a salesperson is employed, his or her responsibilities and duties, and when the salesperson's employment or reported duties are changed or terminated.

Sec. 22. Section 16, chapter 69, Laws of 1982 and RCW 19.105.450 are each amended to read as follows:

The director may make such public or private investigations or may make such requests for information, within or without this state, as ((~~he~~)) the director deems necessary to determine whether any registration should be granted, denied, suspended, or revoked, or a fine imposed, or whether any person has violated or is about to violate any of the provisions of this chapter or any rule ((~~or~~)), order, or permit under this chapter, or to aid in the enforcement of this chapter or in prescribing of rules and forms under, and amendments to, this chapter and may publish information concerning any violation of this chapter or any rule or order under this chapter.

Sec. 23. Section 18, chapter 69, Laws of 1982 and RCW 19.105.470 are each amended to read as follows:

(1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, any withdrawal of a camping ((~~club~~)) resort property in violation of RCW 19.105.380((~~(9)~~)) (1)(j), or any rule ((~~or~~)), order, or permit issued under this chapter, the director may in his or her discretion issue an order directing the person to cease and desist from continuing the act or practice((~~: PROVIDED, That~~)). Reasonable notice of and opportunity for a hearing shall be given((~~: PROVIDED FURTHER, That~~)). However, the director may issue a temporary order pending the hearing which shall be effective immediately upon delivery to the person affected and which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after receipt of notice.

(2) If it appears necessary in order to protect the interests of members and purchasers, whether or not the director has issued a cease and desist order, the attorney general((;)) in the name of the state ((or)), the director, ((or)) the proper prosecuting attorney, an affiliated members' common-interest association, or a group of members as a class, may bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule ((or)), order, or permit under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant ((or)), for the defendant's assets((. The state or director)), or to protect the interests or assets of a members' common-interest association or the members of a camping resort as a class. The state, the director, a members' common-interest association, or members as a class shall not be required to post a bond in such proceedings.

Sec. 24. Section 19, chapter 69, Laws of 1982 and RCW 19.105.480 are each amended to read as follows:

Any person who wilfully ((violates any provision of)) fails to register an offering of camping resort contracts under this chapter is guilty of a gross misdemeanor. It is a gross misdemeanor for any person in connection with the offer or sale of any camping ((club)) resort contracts wilfully and knowingly:

(1) To make any untrue or misleading statement of a material fact, or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are 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;

(4) To file, or cause to be filed, with the director any document which contains any untrue or misleading information;

(5) To breach any impound, escrow, trust, or other security arrangement provided for by this chapter;

(6) To cause the breaching of any trust, escrow, impound, or other arrangement placed in a registration for compliance with section 7 of this 1988 act; or

(7) To employ unlicensed salespersons or permit salespersons or employees to make misrepresentations or violate this chapter.

No indictment or information may be returned under this chapter more than five years after the date of the event alleged to have been a violation.

Sec. 25. Section 22, chapter 69, Laws of 1982 and RCW 19.105.510 are each amended to read as follows:

Camping ((club)) resort contracts registered under this chapter are exempt from the provisions of chapters 21.20 and 58.19 RCW and any act

in this state regulating the offer and sale of land developments, real estate cooperatives, or time shares. ((~~A camping club shall not be considered a subdivision under RCW 58.17.020(1).~~)) Nothing in this chapter prevents counties or cities from enacting ordinances or resolutions setting platting or subdivision requirements solely for camping ((~~clubs~~)) resorts or for camping resorts as subdivisions or binding site plans if appropriate to chapter 58.17 RCW or local ordinances.

Sec. 26. Section 24, chapter 69, Laws of 1982 and RCW 19.105.520 are each amended to read as follows:

Neither the fact that an application for registration nor the written disclosures required by this chapter have been filed, nor the fact that a camping ((~~club~~)) resort contract offering has been effectively registered or exempted, constitutes a finding by the director that the offering or any document filed under this chapter is true, complete, and not misleading, nor does the fact mean that the director has determined in any way the merits or qualifications of or recommended or given approval to any person, camping ((~~club~~)) resort operator, or camping ((~~club~~)) resort contract transaction. It is a gross misdemeanor to make or cause to be made to any prospective purchaser any representation inconsistent with this section.

Sec. 27. Section 25, chapter 69, Laws of 1982 and RCW 19.105.530 are each amended to read as follows:

(1) The director may make, amend, and repeal rules, forms, and orders when necessary to carry out the provisions of this chapter.

(2) The director may appoint those persons within the department deemed necessary to administer this chapter. The director may delegate to such persons any powers, subject to the authority of the director, that may be necessary to carry out this chapter, including the issuance and processing of administrative proceedings and entering into stipulations under RCW 19.105.380.

NEW SECTION. Sec. 28. Section 12, chapter 69, Laws of 1982 and RCW 19.105.410 are each repealed.

NEW SECTION. Sec. 29. 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, with the exception of section 7 of this act, shall take effect immediately. Section 7 of this act shall take effect ninety days thereafter.

Passed the House March 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 160

[House Bill No. 1292]

LIQUOR LICENSEES, YOUNG EMPLOYEES

AN ACT Relating to employees of liquor-licensed premises who are eighteen to twenty-one years of age; and amending RCW 66.44.350.

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

Sec. 1. Section 1, chapter 204, Laws of 1975 1st ex. sess. and RCW 66.44.350 are each amended to read as follows:

Notwithstanding provisions of RCW 66.44.310, employees of class A, C, D and/or H licensees eighteen years of age and over may take orders for, serve and sell liquor in any part of the licensed premises except cocktail lounges, bars, or other areas classified by the Washington state liquor control board as off-limits to persons under twenty-one years of age: PROVIDED, That such employees may enter such restricted areas ((~~for the following purposes:~~)) to perform work assignments including picking up liquor for service in other parts of the licensed premises, ((~~to~~)) performing clean up work, ((~~to~~)) setting up and ((~~arrange~~)) arranging tables, ((~~and to~~)) delivering supplies, delivering messages, serving food, and seating patrons: PROVIDED FURTHER, That such employees shall remain in the areas off-limits to minors no longer than is necessary to carry out their aforementioned duties: PROVIDED FURTHER, That such employees shall not be permitted to perform activities or functions of a bartender.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 161

[Engrossed House Bill No. 1396]

WORKERS' COMPENSATION—BENEFITS REVISED—TIPS AS WAGES

AN ACT Relating to industrial insurance disability benefits; amending RCW 51.32.050, 51.32.180, 51.32.080, 51.32.090, 51.32.075, 51.44.080, 51.32.095, 51.32.250, 51.32.160, 51.08-.178, and 51.32.055; amending section 2, chapter 55, Laws of 1986 (uncodified); reenacting and amending RCW 51.32.060; reenacting RCW 51.32.090; adding a new section to chapter 51.32 RCW; creating a new section; 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 5, chapter 58, Laws of 1986 and by section 1, chapter 59, Laws of 1986 and RCW 51.32.060 are each reenacted and amended to read as follows:

(1) 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)~~)) (a) 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)~~)) (b) 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)~~)) (c) 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)~~)) (d) 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)~~)) (e) 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)~~)) (f) 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)~~)) (g) 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)~~)) (h) 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)~~)) (i) 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)~~)) (j) 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)~~)) (k) 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)~~)) (l) 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)~~)) (2) 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)~~)) (3) 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)~~))) (4) 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)~~))) (5) In no event shall the monthly payments provided in this section exceed ((~~seventy-five~~)) one hundred 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)~~))) (3) of this section.

(((~~(17)~~))) (6) 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.

(((~~(18)~~))) (7) The benefits provided by this section are subject to modification under RCW 51.32.067.

Sec. 2. Section 51.32.050, chapter 23, Laws of 1961 as last amended by section 3, chapter 58, Laws of 1986 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~~)) a monthly payment shall be made to the child or children of the deceased worker ((~~shall~~)) from the month following such remarriage ((~~be~~)) in 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. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if 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.

(d) In no event shall the monthly payments provided in subsection (2) of this section exceed ((~~seventy-five~~)) one hundred 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~~)) one hundred 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~~)) one hundred 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 July 1, 1986, 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 July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

Sec. 3. Section 2, chapter 59, Laws of 1986 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 ((~~subsections (1) through (13) of~~)) RCW 51.32.060 ((~~as amended~~)) (1) and (2) 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)~~)) and (2).

(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~~)) one hundred 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 51.32.090, chapter 23, Laws of 1961 as last amended by section 3, chapter 59, Laws of 1986 and by section 3 of this 1988 act and RCW 51.32.090 are each reenacted to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) 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 one hundred 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. 5. Section 51.32.180, chapter 23, Laws of 1961 as last amended by section 53, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.180 are each amended to read as follows:

Every worker who suffers disability from an occupational disease in the course of employment under the mandatory or elective adoption provisions of this title, or his or her family and dependents in case of death of the worker from such disease or infection, shall receive the same compensation benefits and medical, surgical and hospital care and treatment as would be paid and provided for a worker injured or killed in employment under this title((: ~~PROVIDED, HOWEVER, That~~)), except as follows: (a) This section and RCW 51.16.040 shall not apply where the last exposure to the hazards of the disease or infection occurred prior to January 1, 1937; and (b) for claims filed on or after July 1, 1988, the rate of compensation for occupational diseases shall be established as of the date the disease requires medical treatment or becomes totally or partially disabling, whichever occurs first, and without regard to the date of the contraction of the disease or the date of filing the claim.

Sec. 6. Section 51.32.080, chapter 23, Laws of 1961 as last amended by section 2, chapter 58, Laws of 1986 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)	$54,000.00
Of leg at or above knee joint with functional stump	48,600.00
Of leg below knee joint	43,200.00
Of leg at ankle (Syme)	37,800.00
Of foot at mid-metatarsals	18,900.00
Of great toe with resection of metatarsal bone	11,340.00
Of great toe at metatarsophalangeal joint	6,804.00
Of great toe at interphalangeal joint	3,600.00
Of lesser toe (2nd to 5th) with resection of metatarsal bone	4,140.00
Of lesser toe at metatarsophalangeal joint	2,016.00
Of lesser toe at proximal interphalangeal joint	1,494.00
Of lesser toe at distal interphalangeal joint	378.00
Of arm at or above the deltoid insertion or by disarticulation at the shoulder	54,000.00
Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon	51,300.00
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	48,600.00
Of all fingers except the thumb at metacarpophalangeal joints	29,160.00
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	19,440.00
Of thumb at interphalangeal joint	9,720.00
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone	12,150.00
Of index finger at proximal interphalangeal joint	9,720.00
Of index finger at distal interphalangeal joint	5,346.00
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	9,720.00
Of middle finger at proximal interphalangeal joint	7,776.00
Of middle finger at distal interphalangeal joint	4,374.00
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	4,860.00
Of ring finger at proximal interphalangeal joint	3,888.00

Of ring finger at distal interphalangeal joint	2,430.00
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone	2,430.00
Of little finger at proximal interphalangeal joint	1,944.00
Of little finger at distal interphalangeal joint	972.00

MISCELLANEOUS

Loss of one eye by enucleation	21,600.00
Loss of central visual acuity in one eye	18,000.00
Complete loss of hearing in both ears	43,200.00
Complete loss of hearing in one ear	7,200.00

(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 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 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 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. 7. Section 2, chapter 286, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 203, Laws of 1983 and RCW 51.32.075 are each amended to read as follows:

The compensation or death benefits payable pursuant to the provisions of this chapter for temporary total disability, permanent total disability, or death arising out of injuries or occupational diseases shall be adjusted as follows:

(1) On July 1, 1982, there shall be an adjustment for those whose right to compensation was established on or after July 1, 1971, and before July 1, 1982. The adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1, 1982.

(2) In addition to the adjustment established by subsection (1) of this section, there shall be another adjustment on July 1, 1983, for those whose right to compensation was established on or after July 1, 1971, and before July 1983, which shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1, 1983.

(3) In addition to the adjustments under subsections (1) and (2) of this section, further adjustments shall be made beginning on July 1, 1984, and on each July 1st thereafter for those whose right to compensation was established on or after July 1, 1971. The adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1st of the year in which the adjustment is being made. The department or self-insurer shall adjust the resulting compensation rate to the nearest whole cent, not to exceed the average monthly wage in the state as computed under RCW 51.08.018.

Sec. 8. Section 51.44.080, chapter 23, Laws of 1961 as last amended by section 29, chapter 43, Laws of 1972 ex. sess. and RCW 51.44.080 are each amended to read as follows:

The department shall notify the state treasurer from time to time, of such transfers as a whole from the state fund to the reserve fund and the interest or other earnings of the reserve fund shall become a part of the reserve fund itself. As soon as possible after June 30th of each year the state insurance commissioner shall expert the reserve fund to ascertain its standing as of June 30th of that year and the relation of its outstanding annuities at their then value ((~~on the bases currently employed for new cases~~)) to the cash on hand or at interest belonging to the fund. He shall promptly report the result of his examination to the department and to the state treasurer in writing not later than September 30th following. If the report shows that there was on said June 30th, in the reserve fund in cash or at interest, a

greater sum than the then annuity value of the outstanding pension obligations, the surplus shall be forthwith turned over to the state fund but, if the report shows the contrary condition of the reserve fund, the deficiency shall be forthwith made good out of the state fund.

Sec. 9. Section 10, chapter 14, Laws of 1980 as last amended by section 2, chapter 339, Laws of 1985 and RCW 51.32.095 are each amended to read as follows:

(1) One of the primary purposes of this title is to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers shall utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation as may be reasonable to make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment, the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost as provided in subsection (3) of this section.

(2) When in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, then the following order of priorities shall be used:

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of a new job with the same employer including transitional return to work;

(e) Modification of the previous job with a new employer;

((~~(e)~~)) (f) A new job with a new employer or self-employment based upon transferable skills;

((~~(f)~~)) (g) Modification of a new job with a new employer;

(h) A new job with a new employer or self-employment involving on-the-job training;

((~~(g)~~)) (i) Short-term retraining and job placement.

(3) Costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, transportation, child or

dependent care, and other necessary expenses for any such worker in an amount not to exceed three thousand dollars in any fifty-two week period, and the cost of continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation. Such expenses may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment: PROVIDED, That such compensation or payment of retraining with job placement expenses may not be authorized for a period of more than fifty-two weeks: PROVIDED FURTHER, That such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer as the case may be.

(4) The department shall establish criteria to monitor the quality and effectiveness of rehabilitation services provided by the individuals and organizations used under subsection (1) of this section. The state fund shall make referrals for vocational rehabilitation services based on these performance criteria.

(5) The department shall engage in, where feasible and cost-effective, a cooperative program with the state employment security department to provide job placement services under this section.

(6) The benefits in this section shall be provided for the injured workers of self-insured employers. Self-insurers shall report both benefits provided and benefits denied under this section in the manner prescribed by the department by rule adopted under chapter 34.04 RCW. The director may, in his or her sole discretion and upon his or her own initiative or at any time that a dispute arises under this section, promptly make such inquiries as circumstances require and take such other action as he or she considers will properly determine the matter and protect the rights of the parties.

(7) The benefits provided for in this section are available to any otherwise eligible worker regardless of the date of industrial injury. However, claims shall not be reopened solely for vocational rehabilitation purposes.

Sec. 10. Section 13, chapter 63, Laws of 1982 as amended by section 3, chapter 70, Laws of 1983 and RCW 51.32.250 are each amended to read as follows:

Modification of the injured worker's previous job or modification of a new job is recognized as a desirable method of returning the injured worker to ((~~suitable~~)) gainful employment. In order to assist employers in meeting the costs of job modification, and to encourage employers to modify jobs to accommodate retaining or hiring workers with disabilities resulting from work-related injury, the supervisor or the supervisor's designee, in his or her

discretion, may pay job modification costs in an amount not to exceed five thousand dollars per worker per job modification. This payment is intended to be a cooperative participation with the employer and funds shall be taken from the appropriate account within the second injury fund.

The benefits provided for in this section are available to any otherwise eligible worker regardless of the date of industrial injury.

Sec. 11. Section 51.32.160, chapter 23, Laws of 1961 as last amended by section 4, chapter 59, Laws of 1986 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~~)) from the date the first closing order becomes final, or at any time upon his or her 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 director may, upon application of the worker made at any time, provide proper and necessary medical and surgical services as authorized under RCW 51.36.010. "Closing order" as used in this section means an order based on factors which include medical recommendation, advice, or examination. Applications for benefits where the claim has been closed without medical recommendation, advice, or examination are not subject to the seven year limitation of this section. The preceding sentence shall not apply to any closing order issued prior to July 1, 1981. First closing orders issued between July 1, 1981, and July 1, 1985, shall, for the purposes of this section only, be deemed issued on July 1, 1985. The time limitation of this section shall be ten years in claims involving loss of vision or function of the eyes. If an order denying an application to reopen filed on or after July 1, 1988, is not issued within ninety days of receipt of such application by the self-insured employer or the department, such application shall be deemed granted. However, for good cause, the department may extend the time for making the final determination on the application for an additional sixty days.

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.

Sec. 12. Section 5, chapter 14, Laws of 1980 and RCW 51.08.178 are each amended to read as follows:

(1) For the purposes of this title, the monthly wages the worker was receiving from all employment at the time of injury shall be the basis upon which compensation is computed unless otherwise provided specifically in the statute concerned. In cases where the worker's wages are not fixed by the month, they shall be determined by multiplying the daily wage the worker was receiving at the time of the injury:

(a) By five, if the worker was normally employed one day a week;

(b) By nine, if the worker was normally employed two days a week;

(c) By thirteen, if the worker was normally employed three days a week;

(d) By eighteen, if the worker was normally employed four days a week;

(e) By twenty-two, if the worker was normally employed five days a week;

(f) By twenty-six, if the worker was normally employed six days a week;

(g) By thirty, if the worker was normally employed seven days a week.

The term "wages" shall include the reasonable value of board, housing, fuel, or other consideration of like nature received from the employer as part of the contract of hire, but shall not include overtime pay((~~, tips, or gratuities~~)) except in cases under subsection (2) of this section. However, tips shall also be considered wages only to the extent such tips are reported to the employer for federal income tax purposes. The daily wage shall be the hourly wage multiplied by the number of hours the worker is normally employed. The number of hours the worker is normally employed shall be determined by the department in a fair and reasonable manner, which may include averaging the number of hours worked per day.

(2) In cases where (a) the worker's employment is exclusively seasonal in nature or (b) the worker's current employment or his or her relation to his or her employment is essentially part-time or intermittent, the monthly wage shall be determined by dividing by twelve the total wages earned, including overtime, from all employment in any twelve successive calendar months preceding the injury which fairly represent the claimant's employment pattern.

(3) If, within the twelve months immediately preceding the injury, the worker has received from the employer at the time of injury a bonus as part of the contract of hire, the average monthly value of such bonus shall be included in determining the worker's monthly wages.

(4) In cases where a wage has not been fixed or cannot be reasonably and fairly determined, the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.

Sec. 13. Section 46, chapter 289, Laws of 1971 ex. sess. as last amended by section 1, chapter 55, Laws of 1986 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~~)) 1990, 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~~)) 1990, 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~~)) 1990, 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.

Sec. 14. Section 2, chapter 55, Laws of 1986 (uncodified) is amended to read as follows:

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~~)) 1990.

NEW SECTION. Sec. 15. A new section is added to chapter 51.32 RCW to read as follows:

The increases in benefits in RCW 51.32.050, 51.32.060, 51.32.090, and 51.32.180, contained in chapter ... (EHB 1396), Laws of 1988 do not affect a retrospective rating agreement entered into by any employer with the department before July 1, 1988.

NEW SECTION. Sec. 16. The department shall adopt a rule pursuant to chapter 34.04 RCW that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease in RCW 51.08.140.

NEW SECTION. Sec. 17. Section 4 of this act shall take effect on June 30, 1989. Sections 1, 2, 3, and 6 of this act shall take effect on July 1, 1988.

Passed the House March 7, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 162

[Engrossed Substitute House Bill No. 1511]

WATER DISTRICTS AND SEWER DISTRICTS—POWERS AND DUTIES REVISED

AN ACT Relating to water districts and sewer districts; amending RCW 56.08.090, 57-.08.016, 56.16.135, 57.20.135, 56.02.060, 56.02.070, 57.02.040, 56.24.070, and 57.24.010; adding a new section to chapter 56.02 RCW; adding a new section to chapter 57.06 RCW; adding a new section to chapter 56.36 RCW; adding a new section to chapter 57.40 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. Section 2, chapter 51, Laws of 1953 as amended by section 2, chapter 103, Laws of 1984 and RCW 56.08.090 are each amended to read as follows:

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

(2) If no purchasers can be obtained for the property at ninety percent or more of its appraised value after one hundred eighty days of offering the property for sale, the board of commissioners of the sewer district may adopt a resolution stating that the district has been unable to sell the property at the ninety percent amount. The sewer district then may sell the property at the highest price it can obtain at public auction. A notice of intention to sell at public auction shall be published once a week for three consecutive weeks in a newspaper of general circulation in the sewer district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property, state the time and place at which it will be offered for sale and the terms of sale, and shall call for bids, fix the conditions thereof, and reserve the right to reject any and all bids.

Sec. 2. Section 2, chapter 50, Laws of 1953 as amended by section 3, chapter 103, Laws of 1984 and RCW 57.08.016 are each amended to read as follows:

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

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

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

NEW SECTION. Sec. 3. A new section is added to chapter 56.36 RCW to read as follows:

A person who serves on the board of commissioners of a water district that merges under this chapter into a sewer district, for which the person also serves on the board of commissioners, shall only hold one position on the board of commissioners of the district that results from the merger and shall only receive compensation, expenses, and benefits that are available to a single commissioner.

NEW SECTION. Sec. 4. A new section is added to chapter 57.40 RCW to read as follows:

A person who serves on the board of commissioners of a sewer district that merges under this chapter into a water district, for which the person also serves on the board of commissioners, shall only hold one position on the board of commissioners of the district that results from the merger and shall only receive compensation, expenses, and benefits that are available to a single commissioner.

Sec. 5. Section 1, chapter 139, Laws of 1971 ex. sess. and RCW 56-.02.060 are each amended to read as follows:

Notwithstanding any provision of law to the contrary, no sewer district shall be formed or reorganized under chapter 56.04 RCW, nor shall any sewer district annex territory under chapter 56.24 RCW, nor shall any sewer district withdraw territory under chapter 56.28 RCW, nor shall any sewer district consolidate or be merged under chapter 56.32 RCW, nor shall any water district be merged into a sewer district under chapter 56.36 RCW, unless such proposed action shall be approved as provided for in RCW 56.02.070.

The county legislative authority shall within thirty days after receiving notice of the proposed action, approve such action or hold a hearing on such action. In addition, a copy of such proposed action shall be mailed to the state department of ecology and to the state department of social and health services.

The county legislative authority shall decide within sixty days of a hearing whether to approve or not approve such proposed action. In approving or not approving the proposed action, the county legislative authority shall consider the following criteria:

(1) Whether the proposed action in the area under consideration is in compliance with the development program which is outlined in the county comprehensive plan and its supporting documents; and/or

(2) Whether the proposed action in the area under consideration is in compliance with the basinwide water and/or sewage plan as approved by the state department of ecology and the state department of social and health services; and/or

(3) Whether the proposed action is in compliance with the policies expressed in the county plan for water and/or sewage facilities.

If the proposed action is inconsistent with subsections (1), (2), or (3) of this section, the county legislative authority shall not approve it. If such action is consistent with all such subsections, the county legislative authority shall approve it unless it finds that utility service in the area under consideration will be most appropriately served by the county itself under the provisions of chapter 36.94 RCW, by a city, town, or municipality, or by another existing special purpose district rather than by the proposed action under consideration. If there has not been adopted for the area under consideration a plan under any one of subsections (1), (2) or (3) of this section, the proposed action shall not be found inconsistent with such subsection.

Where a sewer district is proposed to be formed, and where no boundary review board has been established, the petition described in RCW 56-.04.030 shall serve as the notice of proposed action under this section, and the hearing provided for in RCW 56.04.040 shall serve as the hearing provided for in this section and in RCW 56.02.070.

Sec. 6. Section 3, chapter 139, Laws of 1971 ex. sess. and RCW 56-.02.070 are each amended to read as follows:

In any county where a boundary review board, as provided in chapter 36.93 RCW, has not been established, the approval of the proposed action shall be by the county legislative authority pursuant to RCW 56.02.060 and 57.02.040, and shall be final and the procedures required to adopt such proposed action shall be followed as provided by law.

In any county where a boundary review board, as provided in chapter 36.93 RCW, has been established, notice of intention of the proposed action shall be filed with the board as required by RCW 36.93.090 and a copy thereof with the legislative authority. The latter shall transmit to the board a report of its approval or disapproval of the proposed action together with its findings and recommendations thereon under the provisions of RCW 56-.02.060 and 57.02.040. If the county legislative authority has approved of the proposed action, such approval shall be final and the procedures required to adopt such proposal shall be followed as provided by law, unless

the board reviews the action under the provisions of RCW 36.93.100 through 36.93.180. If the county legislative authority has not approved the proposed action, the board shall review the action under the provisions of RCW 36.93.150 through 36.93.180. Action of the board after review of the proposed action shall supersede approval or disapproval by the county legislative authority.

Where a water or sewer district is proposed to be formed, and where no boundary review board has been established, the hearings provided for in RCW 56.04.040 and 57.04.030 shall serve as the hearing provided for in this section, in RCW 56.02.060, and in RCW 57.02.040.

Sec. 7. Section 2, chapter 139, Laws of 1971 ex. sess. and RCW 57-.02.040 are each amended to read as follows:

Notwithstanding any provision of law to the contrary, no water district shall be formed or reorganized under chapter 57.04 RCW, nor shall any water district annex territory under chapter 57.24 RCW, nor shall any water district withdraw territory under chapter 57.28 RCW, nor shall any water district consolidate under chapter 57.32 RCW, nor shall any water district be merged under chapter 57.36 RCW, nor shall any sewer district be merged into a water district under chapter 57.40 RCW, unless such proposed action shall be approved as provided for in RCW 56.02.070.

The county legislative authority shall within thirty days of the date after receiving notice of the proposed action, approve such action or hold a hearing on such action. In addition, a copy of such proposed action shall be mailed to the state department of ecology and to the state department of social and health services.

The county legislative authority shall decide within sixty days of a hearing whether to approve or not approve such proposed action. In approving or not approving the proposed action, the county legislative authority shall consider the following criteria:

(1) Whether the proposed action in the area under consideration is in compliance with the development program which is outlined in the county comprehensive plan and its supporting documents; and/or

(2) Whether the proposed action in the area under consideration is in compliance with the basinwide water and/or sewage plan as approved by the state department of ecology and the state department of social and health services; and/or

(3) Whether the proposed action is in compliance with the policies expressed in the county plan for water and/or sewage facilities.

If the proposed action is inconsistent with subsections (1), (2), or (3) of this section, the county legislative authority shall not approve it. If such action is consistent with all such subsections, the county legislative authority shall approve it unless it finds that utility service in the area under consideration will be most appropriately served by the county itself under the provisions of chapter 36.94 RCW, by a city, town, or municipality, or by

another existing special purpose district rather than by the proposed action under consideration. If there has not been adopted for the area under consideration a plan under any one of subsections (1), (2) or (3) of this section, the proposed action shall not be found inconsistent with such subsection.

Where a water district is proposed to be formed, and where no boundary review board has been established, the petition described in RCW 57-.04.030 shall serve as the notice of proposed action under this section, and the hearing provided for in RCW 57.04.030 shall serve as the hearing provided for in this section and in RCW 56.02.070.

NEW SECTION. Sec. 8. A new section is added to chapter 56.02 RCW to read as follows:

The existence of all sewer districts formed in counties without a boundary review board in compliance with the requirements of chapter 56-.04 RCW, whether or not the requirements of RCW 56.02.060 and 56.02-.070 were satisfied, is validated and such districts shall be deemed to be legally formed.

NEW SECTION. Sec. 9. A new section is added to chapter 57.06 RCW to read as follows:

The existence of all water districts formed in counties without a boundary review board in compliance with the requirements of chapter 57-.04 RCW, whether or not the requirements of RCW 57.02.040 and 56.02-.070 were satisfied, is validated and such districts shall be deemed to be legally formed.

Sec. 10. Section 2, chapter 57, Laws of 1983 and RCW 56.16.135 are each amended to read as follows:

Upon obtaining the approval of the county treasurer, the board of commissioners of a sewer district with more than twenty-five hundred customers may designate by resolution some other person having experience in financial or fiscal matters as the treasurer of the district. Such a treasurer shall possess all of the powers, responsibilities, and duties ((~~that~~)) of, and shall be subject to the same restrictions as provided by law for, the county treasurer ((~~and auditor possess for a sewer district related to creating and maintaining funds, issuing warrants, and investing surplus district funds~~)) with regard to a sewer district, and the county auditor with regard to sewer district financial matters. Such treasurer shall be bonded for not less than twenty-five thousand dollars. Approval by the county treasurer authorizing such a sewer district to designate its treasurer shall not be arbitrarily or capriciously withheld.

Sec. 11. Section 4, chapter 57, Laws of 1983 and RCW 57.20.135 are each amended to read as follows:

Upon obtaining the approval of the county treasurer, the board of commissioners of a water district with more than twenty-five hundred customers may designate by resolution some other person having experience in

financial or fiscal matters as the treasurer of the district. Such a treasurer shall possess all of the powers, responsibilities, and duties ((~~that~~)) of, and shall be subject to the same restrictions as provided by law for, the county treasurer ((~~and auditor possess for a water district related to creating and maintaining funds, issuing warrants, and investing surplus district funds~~)) with regard to a water district, and the county auditor with regard to water district financial matters. Such treasurer shall be bonded for not less than twenty-five thousand dollars. Approval by the county treasurer authorizing such a water district to designate its treasurer shall not be arbitrarily or capriciously withheld.

NEW SECTION. Sec. 12. Any action taken by a sewer district treasurer or water district treasurer prior to the effective date of this section and consistent with sections 10 and 11 of this act is ratified and confirmed.

Sec. 13. Section 1, chapter 11, Laws of 1967 ex. sess. as last amended by section 56, chapter 469, Laws of 1985 and RCW 56.24.070 are each amended to read as follows:

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

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

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

Sec. 14. Section 15, chapter 18, Laws of 1959 as amended by section 21, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.24.010 are each amended to read as follows:

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

The county legislative authority, upon receipt of a petition certified to contain a sufficient number of signatures of electors, or upon receipt of a petition signed by such a number as own at least a majority of the acreage, together with a certificate of concurrence signed by the water commissioners, at a regular or special meeting shall cause to be published once a week for at least two weeks in a newspaper in general circulation throughout the territory proposed to be annexed a notice that the petition has been filed,

stating the time of the meeting at which it shall be presented, and setting forth the boundaries of the territory proposed to be annexed.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 5, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 163

[Second Substitute House Bill No. 1565]

SHELTER SERVICES FOR ALCOHOL AND DRUG ABUSERS MAY BE USED BY HOMELESS—TREATMENT PROGRAM REVISIONS

AN ACT Relating to alcoholism and drug addiction treatment; amending RCW 74.50-.010, 74.50.030, 74.50.050, and 74.50.060; creating new sections; and declaring an emergency.

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

Sec. 1. Section 2, chapter 406, Laws of 1987 and RCW 74.50.010 are each amended to read as follows:

The legislature finds:

(1) There is a need for reevaluation of state policies and programs regarding indigent alcoholics and drug addicts;

(2) The practice of providing a cash grant may be causing rapid caseload growth and attracting transients to the state;

(3) Many chronic public inebriates have been recycled through county detoxification centers repeatedly without apparent improvement;

(4) The assumption that all individuals will recover through treatment has not been substantiated;

(5) The state must modify its policies and programs for alcoholics and drug addicts and redirect its resources in the interests of these individuals, the community, and the taxpayers; and

(6) Treatment resources should be focused on persons willing to commit to rehabilitation; and

(7) ((~~Shelter assistance is an essential service necessary to prevent homelessness and meet the basic needs of indigent alcoholics and drug addicts~~)) It is the intent of the legislature that, to the extent possible, shelter services be developed under this chapter that do not result in the displacement of existing emergency shelter beds. To the extent that shelter operators do not object, it is the intent of the legislature that any vacant shelter beds contracted for under this chapter be made available to provide emergency temporary shelter to homeless individuals.

Sec. 2. Section 4, chapter 406, Laws of 1987 and RCW 74.50.030 are each amended to read as follows:

A program of treatment and shelter for alcoholics and drug addicts who meet the eligibility requirements is established within available funds within the department of social and health services. The eligibility requirements for the treatment and shelter program shall be the same as the eligibility requirements for the general assistance program as set forth in RCW 74.04.005 except that RCW 74.04.005(6)(a)(i) shall not exclude a federal-aid recipient from receiving inpatient or recovery house treatment services, and RCW 74.04.005(6) (d), (e), and (f) shall not apply. However, persons who are unemployable solely due to alcohol or drug addiction shall be eligible for services under this chapter, to the extent of available funds, instead of the general assistance——unemployable program. This program shall consist of:

(1) Client assessment services;

(2) A treatment program for alcoholics and drug addicts;

(3) A shelter program for indigent alcoholics and drug addicts;

(4) Assistance in making application for enrollment in the federal supplemental security income program under the social security administration act; and

(5) Medical care services as defined in RCW 74.09.010.

Sec. 3. Section 6, chapter 406, Laws of 1987 and RCW 74.50.050 are each amended to read as follows:

(1) The department shall provide alcohol and drug treatment services ((~~within available funds~~)) for indigent persons eligible under this chapter who are incapacitated from gainful employment due to drug or alcohol abuse or addiction. The treatment services may include but are not limited to:

(a) Intensive inpatient treatment services;

(b) Recovery house treatment;

(c) Outpatient treatment and counseling, including assistance in obtaining employment, and including a living allowance while undergoing outpatient treatment. The living allowance may not be used to provide shelter to clients in a dormitory setting that does not require sobriety as a condition of residence. The living allowance shall be administered on the clients' behalf by the outpatient treatment facility or other social service agency designated by the department. The department is authorized to pay the facility a fee for administering this allowance.

(2) Every effort will be made to serve all of those requesting treatment. If a waiting list develops, those persons awaiting treatment may be provided shelter services and shall have the option of receiving such shelter services through a protective payee. The department shall promulgate regulations

which determine the amount of cash which may be disbursed by the protective payee to the recipient. A recipient who fails to appear for the scheduled treatment shall not be eligible for such waiting period benefits for a period of one year.

(3) No individual may receive treatment services under this section for more than six months in any two-year period: PROVIDED, That the department may approve additional treatment and/or living allowance as an exception.

(4) The department may require an applicant or recipient selecting treatment to complete inpatient and recovery house treatment when, in the judgment of a designated assessment center, such treatment is necessary prior to providing the outpatient program.

Sec. 4. Section 7, chapter 406, Laws of 1987 and RCW 74.50.060 are each amended to read as follows:

(1) The department shall establish a shelter assistance program to ensure the availability of shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through protective payees.

(2) Persons continuously eligible for the general assistance-unemployable program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.

NEW SECTION. Sec. 5. The department shall establish a pilot project(s) for a case management protective payee system. The project(s) will involve no more than two hundred ten recipients. The project(s) will provide a ratio of no more than thirty-five recipients per case manager. The purpose of the project(s) is to evaluate whether a case management system can be administered in such a manner as to prevent the diversion of assistance for purchasing of alcohol or drugs. The department shall report on the results of the pilot project(s) to the appropriate legislative committees by December 1, 1989. This section shall expire July 1, 1990, unless extended by law.

NEW SECTION. Sec. 6. The department shall report to the appropriate committees of the legislature by January 5, 1989, on the alcohol and drug addiction treatment and shelter act. The report shall include at least the following information:

(1) The average monthly number of persons receiving client assessment services, including the number receiving assistance in the application process for supplemental security income benefits;

(2) The average monthly number of persons receiving treatment services, including the number receiving inpatient and outpatient treatment, and the number receiving a living allowance while waiting for treatment or undergoing outpatient treatment;

(3) The average monthly number of persons receiving shelter services and the type of shelter services provided;

(4) The number of shelter beds contracted for under this program which were previously temporary emergency shelter beds;

(5) The number of applicants for general assistance payments referred to the program and the number of recipients of general assistance transferred to the program.

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

Passed the House March 9, 1988.
Passed the Senate March 8, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 164

[Substitute Senate Bill No. 6212]

FIRE FIGHTERS AND POLICE—DISABILITY BOARDS

AN ACT Relating to fire fighters and police; and amending RCW 41.26.110, 41.16.020, and 41.20.010.

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

Sec. 1. Section 11, chapter 209, Laws of 1969 ex. sess. as last amended by section 1, chapter 12, Laws of 1982 and RCW 41.26.110 are each amended to read as follows:

(1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board hereafter authorized to be created.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by said cities and composed of the following five members: Two members of

the city legislative body to be appointed by the mayor, one active or retired fire fighter to be elected by the fire fighters employed by or retired from the city, one active or retired law enforcement officer to be elected by the law enforcement officers employed by or retired from the city and one member from the public at large who resides within the city to be appointed by the other four ((~~appointed~~)) members heretofore designated in this subsection. ((~~Beginning with the next election following February 19, 1974, the law enforcement officer member shall serve a one year term and the fire fighter member shall serve a two year term. Thereafter~~)) Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Each of the elected members shall serve a two year term. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain existing firemen's pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by fire fighters or law enforcement officers as provided under the Washington law enforcement officers' and fire fighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members residing in the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body, one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1)(a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board, one fire fighter or retired fire fighter to be elected by the fire fighters employed or retired in the county who are not employed by or retired from a city in which a disability board is established, one law enforcement officer or retired law enforcement officer to be elected by the law enforcement officers employed in or retired from the county who are not employed by or retired from a city in which a disability board is established, and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four ((~~appointed~~)) members heretofore designated in this subsection. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. All members appointed or elected pursuant to this subsection shall serve for two year terms.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but said members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter.

Sec. 2. Section 2, chapter 91, Laws of 1947 as last amended by section 1, chapter 19, Laws of 1973 1st ex. sess. and RCW 41.16.020 are each amended to read as follows:

There is hereby created in each city and town a municipal firemen's pension board to consist of the following five members, ex officio, the mayor, or in a city of the first class, the mayor or his designated representative who shall be an elected official of the city, who shall be chairman of the board, the city comptroller or clerk, the chairman of finance of the city council, or if there is no chairman of finance, the city treasurer, and in addition, two regularly employed or retired firemen elected by secret ballot of the employed and retired firemen. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The ((~~first~~)) members to be elected by the firemen shall be ((~~for a term of one and two years, respectively, and their successors shall be~~)) elected annually for a two year term. The two firemen ((~~so~~)) elected members shall, in turn, select a third ((~~fireman~~)) eligible member who shall serve as an alternate in the event of an absence of one of the regularly elected ((~~firemen~~)) members. In case a vacancy occurs in the membership of the firemen or retired members, the members ((~~of the fire department~~)) shall in the same manner elect a successor to serve his unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business.

Sec. 3. Section 1, chapter 39, Laws of 1909 as last amended by section 1, chapter 16, Laws of 1973 1st ex. sess. and RCW 41.20.010 are each amended to read as follows:

(1) The mayor or his designated representative who shall be an elected official of the city, and the clerk, treasurer, president of the city council or mayor pro tem of each city of the first class, or in case any such city has no city council, the commissioner who has supervision of the police department, together with three active or retired members of the police department, to be elected as herein provided, in addition to the duties now required of them, are constituted a board of trustees of the relief and pension fund of

the police department of each such city, and shall provide for the disbursement of the fund, and designate the beneficiaries thereof.

(2) The police department and the retired law enforcement officers of each city of the first class shall elect three ((~~regularly appointed, qualified, and acting~~)) members ((~~of the department~~)) to act as members of the board. ((~~On the first election following adoption of this 1955 amendatory act [1955 c 69], one~~)) Members shall be elected for ((~~a~~)) three year terms((~~, one for a two year term, and one for a one year term. Thereafter, one new member shall be elected each year for a three year term~~)). Existing members shall continue in office until replaced as provided for in this section.

(3) Such election shall be held in the following manner. Not more than thirty nor less than fifteen days preceding the first day of June in each year, written notice of the nomination of any member or retired member of the department for membership on the board may be filed with the secretary of the board. Each notice of nomination shall be signed by not less than five members or retired members of the department, and nothing herein contained shall prevent any member or retired member of the department from signing more than one notice of nomination. The election shall be held on a date to be fixed by the secretary during the month of June. Notice of the dates upon which notice of nomination may be filed and of the date fixed for the election of such members of the board shall be given by the secretary of the board by posting written notices thereof in a prominent place in the police headquarters. For the purpose of such election, the secretary of the board shall prepare and furnish printed or typewritten ballots in the usual form, containing the names of all persons regularly nominated for membership and shall furnish a ballot box for the election. Each member and each retired member of the police department shall be entitled to vote at the election for one nominee as a member of the board ((~~except in the first election where each may cast three votes~~)). The chief of the department shall appoint two members to act as officials of the election, who shall be allowed their regular wages for the day, but shall receive no additional compensation therefor. The election shall be held in the police headquarters of the department and the polls shall open at 7:30 a.m. and close at 8:30 p.m. The one nominee receiving the highest number of votes shall be declared elected to the board and his term shall commence on the first day of July succeeding the election. In the first election the nominee receiving the greatest number of votes shall be elected to the three year term, the second greatest to the two year term and the third greatest to the one year term. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Ballots shall

contain all names of those nominated, both active and retired. Notice of nomination and voting by retired members shall be conducted by the board.

Passed the Senate March 7, 1988.
Passed the House February 26, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 165

[House Bill No. 1710]

PUBLIC WORKS BOARD RECOMMENDED PROJECTS

AN ACT Relating to projects recommended by the public works board; creating a new section; 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, the following public works projects are approved for loans with funds previously appropriated from the public works assistance account:

(1) City of Anacortes—Sewer project—repair, rehabilitation, or replacement of aging sanitary sewer lines $319,307
(2) City of Battleground—water project—new well, storage tank, and transmission lines to connect to existing system $210,000
(3) City of Bellevue—road project—arterial street widening to include sidewalks, lighting, and traffic signals $1,000,000
(4) City of Bellingham—road project—arterial street widening to include bridge replacement and a traffic signal $1,000,000
(5) Clark County—sanitary sewer project—expansion and modifications to the Salmon Creek wastewater treatment plant $877,532
(6) Cowlitz County Public Utility District No. 1—water project—replacement of undersized and deteriorated lines $661,800
(7) Crockett Lake Water District—water project—new reservoir, piping, and chlorination unit $147,000
(8) City of Deer Park—water project—new well and transmission lines to connect to existing system $260,555

(9) City of Des Moines—road project—reconstruction and widening to include new storm drainage system $384,000

(10) City of Ellensburg—road project—removal of an abandoned railroad overpass followed by reconstruction to include sidewalks, lighting, and landscaping $280,000

(11) City of Entiat—water project—replacement of water distribution system to include additional fire hydrants $262,350

(12) City of Everett—water project—replacement of 52-inch diameter wooden supply line $1,000,000

(13) Federal Way Water and Sewer District—water project—purchase and installation of emergency power generators and reservoir improvements $347,070

(14) Federal Way Water and Sewer District—sanitary sewer project—purchase and installation of emergency power generators $312,181

(15) City of Ferndale—road project—replacement of existing traffic signal controllers and installation of two new traffic signals and controllers on an arterial street $155,085

(16) Franklin County—road project—arterial road reconstruction to include lighting and drainage improvements $220,000

(17) City of Goldendale—road project—reconstruction, drainage improvements, and sealing of ten miles of roadway $1,000,000

(18) City of Grandview—sanitary sewer project—purchase and installation of additional lagoon aerators and construction of new chlorine chamber $1,000,000

(19) Town of Granger—water project—renovation of a well, installation of manganese sequestering and chlorination equipment, reservoir modifications, and distribution system improvements $32,535

(20) Town of Granger—sanitary sewer project—treatment plant improvements and replacement of collection lines $188,334

(21) Town of Granite Falls—water project—replacement of transmission line from reservoir to distribution system $162,730
(22) City of Kennewick—road project—arterial street reconstruction to include sidewalks and lighting $871,780
(23) King County—storm sewer project—installation of stormwater control structure, including environmental controls $496,495
(24) Klickitat County Public Utility District No. 1—sanitary sewer project—treatment plant and lagoon improvements $104,077
(25) Klickitat County Public Utility District No. 1—water project—new wells, water softeners, reservoir and distribution system improvements $243,079
(26) City of Leavenworth—water project—new well, reservoir and transmission lines, to include chlorination improvements $686,984
(27) City of Longview—sanitary sewer project—flow monitoring, testing, and repair or replacement of the collection system $1,000,000
(28) City of Lynden—water project—upgrade of water treatment plant to include standby pumping units $672,480
(29) City of Mercer Island—sanitary sewer project—purchase and installation of emergency generators at lift stations $315,000
(30) City of Mercer Island—road project—redesign, widen, and repair of an arterial street $315,000
(31) City of Mercer Island—water project—construction of a new pumping station $315,000
(32) City of Mount Vernon—sanitary sewer project—modification and expansion of the sewage treatment plant $1,000,000
(33) Northeast Lake Washington Sewer and Water District—water project—major replacement of distribution system $1,000,000
(34) Town of Oakesdale—sanitary sewer project—replacement of collection system and improvements to the treatment lagoon $449,325

(35) City of Ocean Shores—water project—new well, sand trap, and replacement of the filter media $729,000
(36) City of Olympia—road project—arterial street widening to include sidewalks and lighting $1,000,000
(37) City of Poulsbo—street reconstruction to include sidewalks and utility replacement $398,075
(38) City of Redmond—road project—arterial street widening to include sidewalks and drainage improvements $714,100
(39) City of Seattle—road project—arterial reconstruction to include drainage improvements $975,240
(40) City of Shelton—sanitary sewer project—replacement of part of collection system $900,000
(41) City of Snohomish—road project—street reconstruction to include sidewalks and drainage $94,400
(42) City of Snohomish—water project—construction of new reservoir and installation of transmission line $737,000
(43) City of Spokane—bridge project—design and first phase of construction of a replacement bridge $753,300
(44) City of Spokane—water project—replacement of a transmission line on a bridge $155,137
(45) Spokane County—bridge project—design and right of way purchase for a railroad undercrossing $189,000
(46) City of Stanwood—water project—improvements to system supply and construction of two new reservoirs $297,900
(47) Stevens County Public Utility District No. 1—water project—pump, reservoir, and control system improvements $368,564
(48) Town of Sultan—road project—street reconstruction and repair or replacement of utility lines $510,300
(49) City of Tacoma—road project—repair and replacement of sidewalk to include retaining wall work $914,670
(50) Thurston County—water project—new wells, reservoirs, and distribution system $808,000

(51) City of Vancouver—road project—arterial street reconstruction and overlay $1,000,000
(52) City of Waitsburg—sanitary sewer project—improvements to the wastewater treatment lagoon $113,560
(53) Town of Wilkeson—sanitary sewer project—replacement of sewer lines to include street reconstruction $91,990
(54) Town of Winthrop—sanitary sewer project—improvements to the wastewater treatment lagoon $101,450
(55) City of Yakima—sanitary sewer project—pumping station and connecting piping at the wastewater treatment plant $945,000

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 13, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 166

[Engrossed House Bill No. 1581]
BANDED RATES—NATURAL GAS AND ELECTRIC SERVICES

AN ACT Relating to authorization for the utilities and transportation commission to approve tariffs for gas companies and electrical companies that include banded rates; adding new sections to chapter 80.28 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature declares it is the policy of the state to:

(1) Preserve affordable natural gas and electric services to the residents of the state;

(2) Maintain and advance the efficiency and availability of natural gas and electric services to the residents of the state of Washington;

(3) Ensure that customers pay only reasonable charges for natural gas and electric service;

(4) Permit flexible pricing of natural gas and electric services.

NEW SECTION. Sec. 2. Upon request by a natural gas company or an electrical company, the commission may approve a tariff that includes banded rates for any nonresidential natural gas or electric service that is

subject to effective competition from energy suppliers not regulated by the utilities and transportation commission. "Banded rate" means a rate that has a minimum and maximum rate. Rates may be changed within the rate band upon such notice as the commission may order.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are added to chapter 80.28 RCW.

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

Passed the House February 8, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 167

[Substitute House Bill No. 1857]
TRANSPORTATION IMPROVEMENT BOARD

AN ACT Relating to transportation; amending RCW 35.77.010, 36.79.110, 36.81.121, 44.40.070, 47.01.031, 47.01.240, 47.26.080, 47.26.130, 47.26.140, 47.26.160, 47.26.170, 47.26-.180, 47.26.185, 47.26.190, 47.26.220, 47.26.230, 47.26.240, 47.26.260, 47.26.270, 47.26.305, 47.26.310, 47.26.4254, 47.26.430, 47.26.440, and 47.26.450; reenacting and amending RCW 43.03.028, 47.26.090, and 47.26.150; adding new sections to chapter 47.26 RCW; creating new sections; and repealing RCW 47.26.085, 47.26.120, 47.26.183, 47.26.281, and 47.26.290.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.26 RCW to read as follows:

(1) There is hereby created a transportation improvement board of fifteen members, six of whom shall be county members and six of whom shall be city members. The remaining members shall be: (a) The assistant secretary of the department of transportation whose primary responsibilities relate to planning and public transportation; (b) the assistant secretary for highways of the department of transportation; and (c) the state aid engineer of the department of transportation.

(2) Of the county members of the board, one member shall be a county engineer from a county of the first class or larger; one member shall be a county engineer from a county of the second class or smaller; one member shall be an engineer occupying the position of county road administration engineer, created by RCW 36.78.060; two members shall be county executives, council members, or commissioners from counties of the first class or larger; one member shall be a county executive, council member, or commissioner from a county of the second class or smaller. All county members

of the board, except the county road administration engineer, shall be appointed. Not more than one county member of the board shall be from any one county. For the purposes of this subsection, the term county engineer shall mean the director of public works in any county in which such a position exists.

(3) Of the city members of the board two shall be chief city engineers, public works directors, or other city employees with responsibility for public works activities, of cities over twenty thousand population; one shall be a chief city engineer, public works director, or other city employee with responsibility for public works activities, of a city of less than twenty thousand population; two shall be mayors, commissioners, or city council members of cities of more than twenty thousand population; and one shall be a mayor, commissioner, or council member of a city of less than twenty thousand population. All of the city members shall be appointed. Not more than one city member of the board shall be from any one city.

(4) Appointments of county and city representatives shall be made by the secretary of the department of transportation, with initial appointments to be made by July 1, 1988. Appointees shall be chosen from a list of two persons for each position nominated by the Washington state association of counties for county members and the association of Washington cities for city members. Except as provided in subsection (5) of this section, terms of appointment are four years. In the case of a vacancy, the appointment shall be only for the remainder of the unexpired term in which the vacancy has occurred. A vacancy shall be deemed to have occurred on the board when any member elected to public office completes that term of office or is removed therefrom for any reason or when any member employed by a political subdivision terminates such employment for whatsoever reason.

(5) The initial appointment to the board for three county representatives and three city representatives shall be for terms of two years and the remainder of the appointments shall be for terms of four years. Terms of all appointed members shall expire on June 30th of even-numbered years.

(6) The board shall elect a chair from among its members for a two-year term.

(7) Expenses of the board, including administration of the transportation improvement program, shall be paid from the urban arterial account.

NEW SECTION. Sec. 2. A new section is added to chapter 47.26 RCW to read as follows:

The transportation improvement account is hereby created in the motor vehicle fund. The board shall adopt rules and procedures which shall govern the allocation of funds in the transportation improvement account at such time as funds become available.

The board shall allocate funds from the account by June 30 of each year for the ensuing fiscal year and shall endeavor to provide geographical diversity in selecting improvement projects to be funded from the account.

Of the amount made available to the transportation improvement board from the transportation improvement account for improvement projects:

(1) Eighty-seven percent shall be allocated to counties, to cities with a population of over five thousand, and to transportation benefit districts. Improvement projects may include, but are not limited to, multi-agency and suburban arterial improvement projects.

To be eligible to receive these funds, a project must be (a) consistent with state, regional, and local transportation plans and consideration shall be given to the project's relationship, both actual and potential, with rapid mass transit and at such time as a rail plan is developed by the rail development commission, projects must be consistent therewith, (b) necessitated by existing or reasonably foreseeable congestion levels attributable to economic development or growth, and (c) partially funded by local government or private contributions, or a combination of such contributions. The board shall, for those projects meeting the eligibility criteria, determine what percentage of each project is funded by local and/or private contribution. Priority consideration shall be given to those projects with the greatest percentage of local and/or private contribution.

Within one year after board approval of an application for funding, a county, city, or transportation benefit district shall provide written certification to the board of the pledged local and/or private funding. Funds allocated to an applicant that does not certify its funding within one year after approval may be reallocated by the board.

(2) Thirteen percent shall be allocated by the board to cities with a population of five thousand or less for street improvement projects in a manner determined by the board.

NEW SECTION. Sec. 3. A new section is added to chapter 47.26 RCW to read as follows:

Any county, city, or transportation benefit district constructing a project using transportation improvement account funds shall submit to the board its voucher for payment of the transportation improvement account share of the cost. The chair of the board or the chair's designee shall approve the voucher, when proper to do so, for payment from the account.

The board may adopt rules providing for the approval of payments of funds in the account for costs of construction of an approved project for work in progress and when the project is complete. These payments shall at no time exceed the account share of the costs of construction incurred to the date of the voucher covering the payment.

NEW SECTION. Sec. 4. In addition to any other reports required by law, by January 15, 1989, the transportation improvement board shall submit to the legislative transportation committee a report setting forth its plans for implementing the provisions of this act. The report shall include the criteria intended to be applied in allocating funds in the transportation

improvement account, the local and/or private contribution requirements, and the procedures to be followed by applicants.

NEW SECTION. Sec. 5. A new section is added to chapter 47.26 RCW to read as follows:

In addition to any other reports required by law, beginning July 1, 1989, and annually thereafter, the board shall submit a report to the legislative transportation committee covering board activities and expenditures for the previous fiscal year and planned activities and expenditures for the ensuing fiscal year. Each report shall include information on administrative expenditures as well as expenditures for improvement projects.

Sec. 6. Section 35.77.010, chapter 7, Laws of 1965 as last amended by section 23, chapter 7, Laws of 1984 and RCW 35.77.010 are each amended to read as follows:

(1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive street program for the ensuing six calendar years and shall file the program with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city street needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive street program before July 1st of each year, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated street construction program. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year program of each city lying within an urban area shall contain a separate section setting forth the six-year program for arterial street construction based upon its long range construction plan and formulated in accordance with rules of the ((~~urban arterial~~)) transportation improvement board. The six-year program for arterial street construction shall be submitted to the ((~~urban arterial~~)) transportation improvement board forthwith after its annual revision and adoption by the legislative body of the city. The six-year program for arterial street construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority may request for urban arterials ((~~only~~)) from the urban arterial trust account or the transportation improvement account for the six-year period. The arterial street construction program shall provide for a more rapid rate of completion of the long-range construction needs of ((~~major~~)) principal arterial streets than for ((~~secondary~~)) minor and collector arterial streets, pursuant to rules of the ((~~urban~~

~~arterial~~)) transportation improvement board: PROVIDED, That urban arterial trust funds made available to the group of incorporated cities lying outside the boundaries of federally approved urban areas within each region need not be divided between functional classes of arterials but shall be available for any designated arterial street.

(2) ((~~On and after July 1, 1976,~~)) Each six-year program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycle, pedestrian, and equestrian purposes.

Sec. 7. Section 11, chapter 49, Laws of 1983 1st ex. sess. and RCW 36.79.110 are each amended to read as follows:

The county road administration board and the ((~~urban arterial~~)) transportation improvement board shall jointly adopt rules to assure coordination of their respective programs especially with respect to projects proposed by the group of incorporated cities outside the boundaries of federally approved urban areas, and to encourage the system development of county-city arterials in rural areas.

Sec. 8. Section 20, chapter 49, Laws of 1983 1st ex. sess. and RCW 36.81.121 are each amended to read as follows:

(1) Before July 1st of each year, the legislative authority of each county with the advice and assistance of the county road engineer, and pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive road program for the ensuing six calendar years. The program shall include proposed road and bridge construction work, and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and with the state secretary of transportation not more than thirty days after its adoption by the legislative authority. The purpose of this section is to assure that each county shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated road construction program. The program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

(2) The six-year program of each county having an urban area within its boundaries shall contain a separate section setting forth the six-year program for arterial road construction based upon its long-range construction plan and formulated in accordance with regulations of the ((~~urban arterial~~)) transportation improvement board. The six-year program for arterial road construction shall be submitted to the ((~~urban arterial~~)) transportation improvement board forthwith after its annual revision and adoption by the legislative authority of each county. The six-year program for arterial road construction shall be based upon estimated revenues available

for such construction together with such additional sums as the legislative authority of each county may request for urban arterials ((~~only~~)) from the urban arterial trust account or the transportation improvement account for the six-year period. The arterial road construction program shall provide for a more rapid rate of completion of the long-range construction needs of ((~~major~~)) principal arterial roads than for ((~~secondary~~)) minor and collector arterial roads, pursuant to regulations of the ((~~urban arterial~~)) transportation improvement board.

(3) Each six-year program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycles, pedestrians, and equestrian purposes.

Sec. 9. Section 20, chapter 87, Laws of 1980 as last amended by section 7, chapter 249, Laws of 1987 and by section 15, chapter 504, Laws of 1987 and RCW 43.03.028 are each reenacted and 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 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 Hispanic affairs; the commission on Asian-American affairs; the state board for volunteer firemen; the ((~~urban arterial~~)) transportation improvement

board; 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) 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 1, chapter 201, Laws of 1973 1st ex. sess. as last amended by section 3, chapter 192, Laws of 1979 ex. sess. and RCW 44-.40.070 are each amended to read as follows:

Prior to October 1st of each even-numbered year all state agencies whose major programs consist of transportation activities, including the department of transportation, the utilities and transportation commission, the ((~~urban arterial~~)) transportation improvement board, the Washington state patrol, the department of licensing, the traffic safety commission, the county road administration board, and the board of pilotage commissioners, shall adopt or revise, after consultation with the legislative transportation committee, a comprehensive six-year program and financial plan for all transportation activities under each agency's jurisdiction.

The comprehensive six-year program and financial plan shall state the general objectives and needs of each agency's major transportation programs, including workload and performance estimates.

Sec. 11. Section 3, chapter 151, Laws of 1977 ex. sess. and RCW 47-.01.031 are each amended to read as follows:

(1) There is created a department of state government to be known as the department of transportation.

(2) All powers, duties, and functions vested by law in the department of highways, the state highway commission, the director of highways, the Washington toll bridge authority, the aeronautics commission, the director of aeronautics, and the canal commission, and the transportation related powers, duties, and functions of the planning and community affairs agency, are transferred to the jurisdiction of the department, except those powers, duties, and functions which are expressly directed elsewhere in this or in any other act of the 1977 legislature.

(3) The ((~~urban arterial board and the~~)) board of pilotage commissioners ((~~are~~)) is transferred to the jurisdiction of the department for ((~~their~~)) its staff support and administration: PROVIDED, That nothing in this section shall be construed as transferring any policy making powers of the ((~~urban arterial board or the~~)) board of pilotage commissioners to the transportation commission or the department of transportation.

Sec. 12. Section 10, chapter 195, Laws of 1971 ex. sess. as amended by section 82, chapter 7, Laws of 1984 and RCW 47.01.240 are each amended to read as follows:

The department and the ((~~urban arterial~~)) transportation improvement board shall coordinate their activities relative to long-range needs studies, in accordance with the provisions of chapter 47.05 RCW and RCW 47.26-.170, respectively, in order that long-range needs data may be developed and maintained on an integrated and comparable basis. Needs data for county roads and city streets in nonurban areas shall be provided by the counties and cities to the department in such form and extent as requested by the department, after consultation with the county road administration board and the association of Washington cities, in order that needs data may be obtained on a comparable basis for all highways, roads, and streets in Washington.

Sec. 13. Section 14, chapter 83, Laws of 1967 ex. sess. as last amended by section 2, chapter 315, Laws of 1981 and RCW 47.26.080 are each amended to read as follows:

There is hereby created in the motor vehicle fund the urban arterial trust account. All moneys deposited in the motor vehicle fund to be credited to the urban arterial trust account shall be expended for the construction and improvement of city arterial streets and county arterial roads within urban areas, for expenses of the ((~~urban arterial~~)) transportation improvement board, or for the payment of principal or interest on bonds issued for the purpose of constructing or improving city arterial streets and county arterial roads within urban areas, or for reimbursement to the state, counties, cities, and towns in accordance with RCW 47.26.4252 and 47.26.4254, the amount of any payments made on principal or interest on urban arterial trust account bonds from motor vehicle or special fuel tax revenues which were distributable to the state, counties, cities, and towns.

Sec. 14. Section 15, chapter 83, Laws of 1967 ex. sess. and RCW 47-.26.090 are each reenacted and amended to read as follows:

The term "arterial" as used in ((~~RCW 47.26.080 through 47.26.290 and 47.26.420 through 47.26.440, 35.77.010 and 36.81.121~~)) this chapter means any state highway, county road, or city street ((~~so designated in accordance with criteria established by regulations of the urban arterial board~~)), in an urban area, that is functionally classified by the federal highway administration as a principal arterial, minor arterial, or collector street.

Sec. 15. Section 19, chapter 83, Laws of 1967 ex. sess. as last amended by section 139, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 47-.26.130 are each amended to read as follows:

Members of the ((~~urban arterial~~)) transportation improvement board shall receive no compensation for their services on the board, but shall be

reimbursed for travel expenses incurred while attending meetings of the board or while engaged on other business of the board when authorized by the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 16. Section 20, chapter 83, Laws of 1967 ex. sess. as last amended by section 58, chapter 151, Laws of 1977 ex. sess. and RCW 47.26.140 are each amended to read as follows:

((~~The department of transportation shall furnish necessary staff services and facilities required by the urban arterial board. The cost of such services, together with travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, of the members and all other lawful expenses of the board, shall be paid from the urban arterial trust account in the motor vehicle fund.~~)) The ((~~urban arterial~~)) transportation improvement board ((~~may~~)) shall appoint an executive ((~~secretary~~)) director, who shall serve at its pleasure and whose salary shall be set by the board ((~~and~~)), and may employ additional staff as it deems appropriate. All costs associated with staff, together with travel expenses in accordance with RCW 43.03.050 and 43.03.060, shall be paid from the urban arterial trust account in the motor vehicle fund.

Sec. 17. Section 21, chapter 83, Laws of 1967 ex. sess. and RCW 47-.26.150 are each reenacted and amended to read as follows:

The ((~~urban arterial~~)) transportation improvement board shall ((~~first meet during the first week of July, 1967. Thereafter the board shall~~)) meet at least once quarterly and upon the call of its chairman and shall from time to time adopt rules and regulations for its own government and as may be necessary for it to discharge its duties and exercise its powers under this chapter.

Sec. 18. Section 22, chapter 83, Laws of 1967 ex. sess. as last amended by section 51, chapter 505, Laws of 1987 and RCW 47.26.160 are each amended to read as follows:

The ((~~urban arterial~~)) transportation improvement board shall:

(1) Adopt rules necessary to implement the provisions of this chapter relating to the allocation of funds ((~~in the urban arterial trust account of the motor vehicle fund to counties and cities~~));

(2) Adopt reasonably uniform design standards for city and county arterials that meet the requirements for urban development;

(3) Report biennially on the first day of November of the even-numbered years to the department and to the chairs of the house and senate transportation committees, including one copy to the staff of each of the committees, regarding progress of cities and counties in developing long-range plans for their urban arterial construction ((~~and~~)), programming ((~~or~~)) of urban arterial construction work, and the allocation of ((~~urban arterial trust~~)) funds ((~~to the cities and counties~~)).

Sec. 19. Section 23, chapter 83, Laws of 1967 ex. sess. as last amended by section 156, chapter 7, Laws of 1984 and RCW 47.26.170 are each amended to read as follows:

The legislative authority of each county or city lying within or having within its boundaries an urban area shall prepare, adopt, and submit to the ((~~urban arterial~~)) transportation improvement board a long-range plan for arterial construction, taking into account the comprehensive land use plan of each such jurisdiction and setting forth arterial construction needs through a ((~~fourteen-year~~)) six-year advance planning period. The long-range arterial construction plans shall be revised by the counties and cities every two years to show the current arterial construction needs through ((~~a fourteen-year~~)) the advanced planning period, and as revised shall be submitted to the ((~~urban arterial~~)) transportation improvement board during the first week of January of every even-numbered year. The long-range plans shall be prepared pursuant to guidelines established by the ((~~urban arterial~~)) transportation improvement board ((~~and with the assistance of the board and the department~~)). Upon receipt of the long-range arterial construction plans of the several counties and cities, the ((~~urban arterial~~)) transportation improvement board shall revise the construction needs for urban arterials set forth in the plans as necessary to conform with its uniform standards for establishing construction needs of the counties and cities.

Sec. 20. Section 24, chapter 83, Laws of 1967 ex. sess. as last amended by section 8, chapter 122, Laws of 1979 ex. sess. and RCW 47.26.180 are each amended to read as follows:

Arterial designation and classification, as provided for by this chapter, shall be required to be an integral and coordinated portion of its planning process as authorized by chapters 35.63 or 36.70 RCW. The legislative authority of each county and city lying within or having within its boundaries an urban area shall with the advice and assistance of its chief engineer and its planning office divide all of its roads or streets into arterial roads or streets and access roads or streets and shall further subdivide the arterials into three functional classes to be known as principal arterials, minor arterials, and collector arterials: PROVIDED, That incorporated cities lying outside federally approved urban areas shall not be required to subdivide arterials into functional classes. Upon receipt of the classification plans of the several counties and cities, the ((~~urban arterial~~)) transportation improvement board shall review and revise the classification for the urban arterials as necessary to conform with (1) existing designated federal route classifications, or (2) uniform classification standards established by the ((~~urban arterial~~)) transportation improvement board.

Sec. 21. Section 4, chapter 253, Laws of 1975 1st ex. sess. as amended by section 157, chapter 7, Laws of 1984 and RCW 47.26.185 are each amended to read as follows:

The ((~~urban arterial~~)) transportation improvement board may adopt rules establishing qualifications for cities and counties administering and supervising the design and construction of ((~~urban arterial~~)) projects financed in part from the urban arterial trust account or the transportation improvement account. The rules establishing qualification shall take into account the resources and population of the city or county, its permanent engineering staff, its design and construction supervision experience, and other factors the board deems appropriate. Any city or county failing to meet the qualifications established by the board for administering and supervising ((~~an urban arterial~~)) a project shall contract with a qualified city or county or the department for the administration and supervision of the design and construction of any approved ((~~urban arterial~~)) project as a condition for receiving ((~~urban arterial trust~~)) account funds for the project.

Sec. 22. Section 25, chapter 83, Laws of 1967 ex. sess. as last amended by section 1, chapter 360, Laws of 1987 and RCW 47.26.190 are each amended to read as follows:

(1) At the beginning of each biennium for the urban arterial trust account, the transportation improvement board shall establish apportionment percentages for the five regions defined in RCW 47.26.050 in the following manner:

(a) One-third in the ratio which the population of the urban areas of each region bears to the total population of all of the urban areas of the state as last determined by the office of financial management;

(b) One-third in the ratio which the vehicle to mile ratio traveled on the classified arterial system prescribed in RCW 47.26.180, within the urban areas of each region bears to the total vehicle to mile ratio traveled on all classified urban arterials; and

(c) One-third in the ratio which the city and county urban arterial needs within the urban areas of each region bears to the total urban arterial needs on city and county urban arterials within all urban areas of the state as last revised by the ((~~urban arterial~~)) transportation improvement board.

Except as otherwise provided in subsection (3) of this section, such apportionment percentages shall be used once each calendar quarter by the ((~~urban arterial~~)) transportation improvement board to apportion funds credited to the urban arterial trust account which are available for expenditure for urban arterial projects: PROVIDED, That any funds credited to the urban arterial trust account subsequent to July 1, 1987, resulting from bond sales in accordance with RCW 47.26.420 through 47.26.427 shall be apportioned according to the percentages for the five regions established for the biennium when the bonding authority was obligated to projects ((~~by the urban arterial board~~)).

(2) All amounts credited to the urban arterial trust account, except those provided for in subsection (3) of this section and any excise tax revenues that may be required to repay the three series of urban arterial bonds

or the interest thereon when due, after apportionment to each region, shall be divided on the basis of relative population established at the beginning of each biennium by the office of financial management between (a) the group of cities and that portion of those counties within federally approved urban areas and (b) the group of incorporated cities outside the boundaries of federally approved urban areas: PROVIDED, That funds credited to the urban arterial trust account subsequent to July 1, 1987, resulting from the sale of bonds in accordance with RCW 47.26.420 through 47.26.427 shall be divided on the basis of relative population percentages established for the biennium when the bonding authority was obligated to projects ((~~by the urban arterial board~~)). Within each region, funds divided between the groups identified under (a) and (b) of this subsection shall then be allocated by the ((~~urban arterial~~)) transportation improvement board to incorporated cities and counties, as the case may be, for the construction of specific urban arterial projects in accordance with the procedures set forth in RCW 47.26.240.

(3) At the beginning of each biennium the ((~~urban arterial~~)) transportation improvement board shall establish apportionment percentages for each of the five regions for the apportionment of the proceeds from the sale of fifteen million dollars of series II bonds and sixteen million dollars of series III bonds authorized by RCW 47.26.420, as now or hereafter amended, in the ratio which the population of the incorporated cities and towns lying outside the boundaries of federally approved urban areas of each region bears to the total population of all incorporated cities and towns of the state lying outside the boundaries of federally approved urban areas, as such populations are determined at the beginning of each biennium by the office of financial management. Such apportionment percentages shall be used once each calendar quarter by the ((~~urban arterial~~)) transportation improvement board to apportion funds credited to the urban arterial trust account which are available for expenditure for urban arterial projects under this subsection: PROVIDED, That any funds credited to the urban arterial trust account subsequent to July 1, 1987, resulting from the sale of bonds in accordance with RCW 47.26.420 through 47.26.427 shall be apportioned with percentages for the five regions established for the biennium when the bonding authority was obligated to projects ((~~by the urban arterial board~~)). Funds apportioned to each region shall be allocated by the ((~~urban arterial~~)) transportation improvement board to incorporated cities lying outside the boundaries of federally approved urban areas, for the construction of specific urban arterial projects in accordance with the procedures set forth in RCW 47.26.240.

Sec. 23. Section 28, chapter 83, Laws of 1967 ex. sess. and RCW 47-.26.220 are each amended to read as follows:

Counties and cities, in preparing their respective six year programs relating to urban arterial improvements to be funded by the urban arterial

trust account, shall select specific priority improvement projects for each functional class of arterial based on the rating of each arterial section proposed to be improved in relation to other arterial sections within the same functional class, taking into account the following:

(1) Its structural ability to carry loads imposed upon it;

(2) Its capacity to move traffic at reasonable speeds without undue congestion;

(3) Its adequacy of alignment and related geometrics;

(4) Its accident experience; and

(5) Its fatal accident experience.

The six year construction programs shall remain flexible and subject to annual revision as provided in RCW 36.81.121 and 35.77.010.

Sec. 24. Section 29, chapter 83, Laws of 1967 ex. sess. as amended by section 158, chapter 7, Laws of 1984 and RCW 47.26.230 are each amended to read as follows:

Whenever an urban arterial in a city crosses into an unincorporated urban area or into an adjacent city, the proper city and county officials shall jointly plan the development of the arterial in their respective long-range plans, arterial classification plans, and six-year construction programs. Whenever an urban arterial connects with and will be substantially affected by a programmed construction project on a state highway, the proper county or city officials shall jointly plan the development of the connecting arterial with the appropriate department of transportation district administrator. The ((~~urban arterial~~)) transportation improvement board shall adopt rules providing for the system development of county-city arterials and urban arterials with state highways.

Sec. 25. Section 30, chapter 83, Laws of 1967 ex. sess. as amended by section 15, chapter 317, Laws of 1977 ex. sess. and RCW 47.26.240 are each amended to read as follows:

Upon receipt of a county's or city's revised six year program, the ((~~urban arterial~~)) transportation improvement board as soon as practicable shall review and may revise the construction program as it relates to urban arterials for which urban arterial trust account moneys are requested as necessary to conform to (1) the priority rating of the proposed project, based upon the factors in RCW 47.26.220, in relation to proposed projects in all other urban arterial construction programs submitted by the cities and counties, and within each region, projects proposed by the group of cities and counties within federally approved urban areas shall be evaluated separately from the projects proposed by the group of incorporated cities outside the boundaries of federally approved urban areas; and (2) the amount of urban arterial trust account funds which the ((~~urban arterial~~)) transportation improvement board estimates will be apportioned to the region, and further divided between the group of cities and counties within federally approved urban areas and the group of incorporated cities outside the

boundaries of federally approved urban areas, in the ensuing six year period.

Sec. 26. Section 32, chapter 83, Laws of 1967 ex. sess. as amended by section 1, chapter 126, Laws of 1973 1st ex. sess. and RCW 47.26.260 are each amended to read as follows:

(1) Upon completion of a preliminary proposal, the county ((~~or~~)), city, or transportation benefit district submitting said proposal shall submit to the ((~~urban arterial~~)) transportation improvement board its voucher for payment of the urban arterial trust account or transportation improvement account, both hereinafter referred to in this section as account, share of the cost. Upon the completion of an approved ((~~urban arterial~~)) construction project, the county ((~~or~~)), city, or transportation benefit district constructing the project shall submit to the ((~~urban arterial~~)) transportation improvement board its voucher for the payment of the ((~~trust~~)) appropriate account share of the cost. The chairman of the ((~~urban arterial~~)) transportation improvement board or his designated agent shall approve such voucher when proper to do so, for payment from the ((~~urban arterial trust~~)) appropriate account to the county ((~~or~~)), city, or transportation benefit district submitting the voucher.

(2) The ((~~urban arterial~~)) transportation improvement board may adopt regulations providing for the approval of payments of funds in the ((~~urban arterial trust~~)) account to a county ((~~or~~)), city, or transportation benefit district for costs of preliminary proposal, and costs of construction of an approved project from time to time as work progresses. These payments shall at no time exceed the ((~~urban arterial trust~~)) account share of the costs of construction incurred to the date of the voucher covering such payment.

Sec. 27. Section 33, chapter 83, Laws of 1967 ex. sess. as last amended by section 22, chapter 49, Laws of 1983 1st ex. sess. and RCW 47.26.270 are each amended to read as follows:

Counties and cities receiving funds from the urban arterial trust account for construction of arterials shall provide such matching funds as shall be established by regulations ((~~recommended~~)) adopted by the ((~~urban arterial~~)) transportation improvement board ((~~subject to review, revision, and final approval by the state transportation commission~~)). Matching requirements shall be established after appropriate studies by the board taking into account (1) financial resources available to counties and cities to meet arterial needs, (2) the amounts and percentages of funds available for road or street construction traditionally expended by counties and cities on arterials, (3) in the case of counties, the relative needs of arterials lying outside urban areas, and (4) the requirements necessary to avoid diversion of funds traditionally expended for arterial construction to other street or road purposes or to nonhighway purposes: PROVIDED HOWEVER, That for projects funded subsequent to July 1, 1977, cities and counties may use

as matching funds any moneys received from any source, except such moneys which by law may not be used for the purposes set forth in this chapter.

Sec. 28. Section 2, chapter 141, Laws of 1974 ex. sess. and RCW 47-.26.305 are each amended to read as follows:

Each city and county eligible for receipt of urban arterial trust funds is hereby authorized and directed to establish a system of bicycle routes throughout its jurisdiction. Such routes shall, when established in accordance with standards adopted by the ((~~urban arterial~~)) transportation improvement board, be eligible for establishment, improvement, and upgrading with urban arterial trust funds when accomplished in connection with an arterial project.

Sec. 29. Section 3, chapter 141, Laws of 1974 ex. sess. as amended by section 160, chapter 7, Laws of 1984 and RCW 47.26.310 are each amended to read as follows:

((~~Prior to July 1, 1974,~~)) The ((~~urban arterial~~)) transportation improvement board shall adopt:

(1) Standards for the designation of a bicycle route system which shall include, but need not be limited to, consideration of:

(a) Existing and potential bicycle traffic generating activities, including but not limited to places of employment, schools, colleges, shopping areas, and recreational areas;

(b) Directness of travel and distance between potential bicycle traffic generating activities; and

(c) Safety for bicyclists and avoidance of conflict with vehicular traffic which shall include, wherever feasible, designation of bicycle routes on streets parallel but adjacent to existing designated urban arterial routes.

(2) Insofar as is practicable to achieve reasonable uniformity, design standards for bicycle routes shall take into consideration the construction standards and signing system devised by the department pursuant to RCW 47.30.060.

Sec. 30. Section 10, chapter 315, Laws of 1981 as amended by section 24, chapter 49, Laws of 1983 1st ex. sess. and RCW 47.26.4254 are each amended to read as follows:

(1) Any funds required to repay series III bonds authorized by RCW 47.26.420, or the interest thereon, when due shall first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW and that is distributed to the urban arterial trust account in the motor vehicle fund, subject, however, to the prior lien of the first authorization of bonds authorized by RCW 47.26.420. If the moneys so distributed to the urban arterial trust account, after first being applied to

administrative expenses of the ((~~urban arterial~~)) transportation improvement board and to the requirements of bond retirement and payment of interest on first authorization bonds and series II bonds as provided in RCW 47.26.425 and 47.26.4252, are insufficient to meet the requirements for bond retirement or interest on any series III bonds, the amount required to make such payments on series III bonds or interest thereon shall next be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the state, counties, cities, and towns pursuant to RCW 46.68.100, subject, however, to subsection (2) of this section.

(2) To the extent that moneys so distributed to the urban arterial trust account are insufficient to meet the requirements for bond retirement or interest on any series III bonds, sixty percent of the amount required to make such payments when due shall first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the state. The remaining forty percent shall first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the cities and towns pursuant to RCW 46.68.100(1) and to the counties pursuant to RCW 46.68.100(2). Of the counties', cities', and towns' share of any additional amounts required in the fiscal year ending June 30, 1984, fifteen percent shall be taken from the counties' distributive share and eighty-five percent from the cities' and towns' distributive share. Of the counties', cities', and towns' share of any additional amounts required in each fiscal year thereafter, the percentage thereof to be taken from the counties' distributive share and from the cities' and towns' distributive share shall correspond to the percentage of funds authorized for specific county projects and for specific city and town projects, respectively, from the proceeds of series III bonds, for the period through the first eleven months of the prior fiscal year as determined by the chairman of the ((~~urban arterial~~)) transportation improvement board and reported to the state finance committee and the state treasurer not later than the first working day of June.

(3) Any payments on such bonds or interest thereon taken from motor vehicle or special fuel tax revenues that are distributable to the state, counties, cities, and towns shall be repaid from the first moneys distributed to the urban arterial trust account not required for redemption of the first authorization bonds, series II bonds, or series III bonds or interest on these bonds.

Sec. 31. Section 53, chapter 83, Laws of 1967 ex. sess. as amended by section 12, chapter 315, Laws of 1981 and RCW 47.26.430 are each amended to read as follows:

Notwithstanding the provisions of RCW 47.26.190 and 47.26.240, the ((~~urban arterial~~)) transportation improvement board may, in any biennium,

subject to proper appropriations, approve expenditures from the urban arterial trust account for construction of projects on urban arterials within a region, the total amount of which including bond proceeds, exceeds the amount apportionable during the biennium to the region. The total amounts apportioned to each region through ((~~1990~~)) 1995 shall meet the apportionment requirements of RCW 47.26.190 and 47.26.240 for such period.

Sec. 32. Section 54, chapter 83, Laws of 1967 ex. sess. as amended by section 163, chapter 7, Laws of 1984 and RCW 47.26.440 are each amended to read as follows:

Not later than November 1st of each even-numbered year the ((~~urban arterial~~)) transportation improvement board shall prepare and present to the commission ((~~a recommended~~)) an adopted budget for expenditures from the urban arterial trust account and the transportation improvement account during the ensuing biennium. The budget shall contain an estimate of the revenues to be credited to the urban arterial trust account and the transportation improvement account and the amount, if any, of bond proceeds which the board determines should be made available to the urban arterial trust account through the sale of bonds in the ensuing biennium.

The commission shall ((~~review the budget as recommended, revise the budget as it deems proper, and~~)) include the budget for the ((~~urban arterial~~)) transportation improvement board ((~~as revised~~)) as a separate section of the transportation budget which it shall submit to the governor and the legislature at the time of its convening.

Sec. 33. Section 6, chapter 171, Laws of 1969 ex. sess. as last amended by section 2, chapter 360, Laws of 1987 and RCW 47.26.450 are each amended to read as follows:

At the time the ((~~urban arterial~~)) transportation improvement board reviews the six-year program of each county and city each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 47.26.440, the portion of the urban arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve urban arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 47.26.240. In the case of projects whose total cost exceeds one million dollars as reflected in the six-year program, the agency with jurisdiction shall furnish to the board a value engineering study performed by an interagency team approved by the board, to determine whether the proposed improvement provides a cost-effective solution for the project before the board may approve urban arterial trust funds for either the preliminary or construction phase of the project. The board may authorize a variance from the value engineering study upon a determination that the study is not warranted. The board may also require a value engineering study for a project whose

total cost is less than one million dollars upon a determination by the board that the study is warranted.

The board shall authorize urban arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve urban arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The ((~~urban arterial~~)) board may, within the constraints of available urban arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting local government that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the local government was developed. Such proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 47.26.220.

NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 5, Laws of 1979 and RCW 47.26.085;

(2) Section 18, chapter 83, Laws of 1967 ex. sess., section 1, chapter 171, Laws of 1969 ex. sess., section 8, chapter 85, Laws of 1971 ex. sess., section 3, chapter 315, Laws of 1981, section 1, chapter 209, Laws of 1982 and RCW 47.26.120;

(3) Section 3, chapter 253, Laws of 1975 1st ex. sess. and RCW 47-.26.183;

(4) Section 4, chapter 267, Laws of 1975 1st ex. sess., section 1, chapter 214, Laws of 1977 ex. sess., section 163, chapter 151, Laws of 1979 and RCW 47.26.281; and

(5) Section 35, chapter 83, Laws of 1967 ex. sess., section 159, chapter 7, Laws of 1984 and RCW 47.26.290.

NEW SECTION. Sec. 35. References in the Revised Code of Washington to the urban arterial board shall be construed to mean the transportation improvement board.

NEW SECTION. Sec. 36. All rules and all pending business before the urban arterial board shall be continued and acted upon by the transportation improvement board. All existing contracts and obligations of the urban arterial board shall remain in full force and shall be performed by the transportation improvement board.

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.

Passed the House February 13, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 168

[Engrossed Substitute House Bill No. 1317]

COUNTY AND CITY ORDINANCES, HEARINGS, MEETINGS—PUBLICATION

AN ACT Relating to requirements for publishing notice of actions or proposed actions of counties, cities and towns; amending RCW 35.22.288, 35.23.310, 35.23.352, 35.24.220, 35.27-.300, 35.30.018, 35A.12.160, and 36.32.120; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; and adding a new section to chapter 58.17 RCW.

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

Sec. 1. Section 100, chapter 469, Laws of 1985 and RCW 35.22.288 are each amended to read as follows:

Promptly after adoption, ((~~every~~)) the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city. For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

Sec. 2. Section 35.23.310, chapter 7, Laws of 1965 and RCW 35.23-.310 are each amended to read as follows:

((~~Before any ordinance shall take effect, it shall be published in one issue of the official newspaper of the city.~~))

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city. For purposes of this section, a summary shall mean a

brief description which succinctly describes the main points of the ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

A certified copy of any ordinance certified to by the clerk, or a printed copy of any ordinance or compilation printed by authority of the city council and attested by the clerk shall be competent evidence in any court.

Sec. 3. Section 2, chapter 120, Laws of 1987 and RCW 35.23.352 are each amended to read as follows:

(1) Any second or third class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. The notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit.

The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish a bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second or third class city or a town may use a small works roster and award contracts under this subsection for contracts of one hundred thousand dollars or less.

(a) The city or town may maintain a small works roster comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in this state.

(b) Whenever work is done by contract, the estimated cost of which is one hundred thousand dollars or less, and the city uses the small works roster, the city or town shall invite proposals from all appropriate contractors on the small works roster: PROVIDED, That whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section. The invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

(c) When awarding such a contract for work, the estimated cost of which is one hundred thousand dollars or less, the city or town shall award the contract to the contractor submitting the lowest responsible bid.

(4) After September 1, 1987, each second class city, third class city, and town shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids: PROVIDED, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and competitive bidding to be dispensed with as to purchases between seven thousand five hundred and fifteen thousand dollars, the city legislative authority must authorize by resolution a procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding the contracts for purchase of materials, equipment, or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(9) These requirements for purchasing may be waived by resolution of the city or town council which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

Sec. 4. Section 35.24.220, chapter 7, Laws of 1965 as last amended by section 1, chapter 400, Laws of 1987 and RCW 35.24.220 are each amended to read as follows:

((~~Every ordinance of a city of the third class~~)) Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the city's official newspaper. ((~~However, as an alternative, a city of the third class with a population of three thousand or less may publish in its official newspaper a summary of the intent and content of any ordinance that it adopts and indicate the times and location where a copy of the ordinance is available for public inspection.~~))

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. When the city

publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

Sec. 5. Section 35.27.300, chapter 7, Laws of 1965 as last amended by section 2, chapter 400, Laws of 1987 and RCW 35.27.300 are each amended to read as follows:

((~~Every~~)) Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the town. ((~~However, as an alternative, a town may publish in its official newspaper a summary of the intent and content of any ordinance that it adopts and indicate the times and location where a copy of the ordinance is available for public inspection.~~))

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. When the town publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a town publish the text or a summary of the content of each adopted ordinance, every town shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the town's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the town determines will satisfy the intent of this requirement.

Sec. 6. Section 101, chapter 469, Laws of 1985 and RCW 35.30.018 are each amended to read as follows:

Promptly after adoption, ((~~every~~)) the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

Sec. 7. Section 35A.12.160, chapter 119, Laws of 1967 ex. sess. as last amended by section 3, chapter 400, Laws of 1987 and RCW 35A.12.160 are each amended to read as follows:

Promptly after adoption, ((~~every~~)) the text of each ordinance or a summary of the content of each ordinance shall be published((~~;~~)) at least once in the city's official newspaper. ((~~However, as an alternative, a city with a population of three thousand or less may publish in its official newspaper a summary of the intent and content of any ordinance that it adopts and indicate the times and location where a copy of the ordinance is available for public inspection.~~))

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

Sec. 8. Section 36.32.120, chapter 4, Laws of 1963 as last amended by section 206, chapter 202, Laws of 1987 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 summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges.

NEW SECTION. Sec. 9. A new section is added to chapter 35.63 RCW to read as follows:

Any notice made under chapter 35.63 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

NEW SECTION. Sec. 10. A new section is added to chapter 35A.63 RCW to read as follows:

Any notice made under chapter 35A.63 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

NEW SECTION. Sec. 11. A new section is added to chapter 36.70 RCW to read as follows:

Any notice made under chapter 36.70 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

NEW SECTION. Sec. 12. A new section is added to chapter 58.17 RCW to read as follows:

Any notice made under chapter 58.17 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 169

[Substitute House Bill No. 1617]

CITY AND COUNTY TREASURERS' REMITTANCE TO STATE TREASURER—REVISIONS

AN ACT Relating to court costs; and amending RCW 3.46.120, 3.50.100, 3.62.020, 3.62.040, 10.82.070, and 35.20.220.

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

Sec. 1. Section 46, chapter 299, Laws of 1961 as last amended by section 3, chapter 389, Laws of 1985 and RCW 3.46.120 are each amended to read as follows:

(1) All money received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs((~~, except those costs specified in RCW 4.84.010 or otherwise provided for by statute, assessed and collected in whole or in part by the court~~)) shall be paid by the clerk to the city treasurer.

(2) The city treasurer shall remit monthly thirty-two percent of the money received under this section, other than for parking infractions, and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

Sec. 2. Section 59, chapter 299, Laws of 1961 as last amended by section 4, chapter 389, Laws of 1985 and RCW 3.50.100 are each amended to read as follows:

(1) Costs in civil and criminal actions may be imposed as provided in district court. All fees, costs ((~~except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute~~)), fines, forfeitures and other money imposed by any municipal court for the violation of any municipal or town ordinances shall be collected by the court clerk and, together with any other revenues received by the clerk, shall be deposited with the city or town treasurer as a part of the general fund of the city or town, or deposited in such other fund of the city or town, or deposited in such other funds as may be designated by the laws of the state of Washington.

(2) The city treasurer shall remit monthly thirty-two percent of the money received under this section, other than for parking infractions, and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

Sec. 3. Section 106, chapter 299, Laws of 1961 as last amended by section 5, chapter 389, Laws of 1985 and RCW 3.62.020 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, all costs ((~~except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute~~)), fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except costs, fines, forfeitures and penalties assessed and collected, in whole or in part, because of the violation of city ordinances, shall be remitted by the clerk of the district court to the county treasurer at least monthly, together with a financial statement as required by the division of municipal corporations, noting the information necessary for crediting of such funds as required by law.

(2) The county treasurer shall remit thirty-two percent of the money received under subsection (1) of this section except certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel.

Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received by the county treasurer under subsection (1) of this section shall be deposited in the county current expense fund.

(4) All money collected for county parking infractions shall be remitted by the clerk of the district court at least monthly, with the information required under subsection (1) of this section, to the county treasurer for deposit in the county current expense fund.

Sec. 4. Section 108, chapter 299, Laws of 1961 as last amended by section 6, chapter 389, Laws of 1985 and RCW 3.62.040 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, all costs ((~~except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute~~)), fines, forfeitures and penalties assessed and collected, in whole or in part, by district courts because of violations of city ordinances shall be remitted by the clerk of the district court at least monthly directly to the treasurer of the city wherein the violation occurred.

(2) The city treasurer shall remit monthly thirty-two percent of the money received under this section, other than for parking infractions and certain costs, to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

(4) All money collected for city parking infractions shall be remitted by the clerk of the district court at least monthly to the city treasurer for deposit in the city's general fund.

Sec. 5. Section 3, page 421, Laws of 1873 as last amended by section 169, chapter 202, Laws of 1987 and RCW 10.82.070 are each amended to read as follows:

(1) All sums of money derived from costs ((~~except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute~~)), fines, penalties, and forfeitures imposed or collected, in whole or in part, by a superior court for violation of orders of injunction, mandamus and other like writs, for contempt of court, or for breach of the penal laws shall be paid in cash by the person collecting the same, within twenty days

after the collection, to the county treasurer of the county in which the same have accrued.

(2) The county treasurer shall remit monthly thirty-two percent of the money received under this section except for certain costs to the state treasurer for deposit as provided under RCW 43.08.250 and shall deposit the remainder as provided by law. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel.

(3) All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. All fees, fines, forfeitures, and penalties collected or assessed by a superior court in cases on appeal from a lower court shall be remitted to the municipal or district court from which the cases were appealed.

Sec. 6. Section 35.20.220, chapter 7, Laws of 1965 as last amended by section 8, chapter 389, Laws of 1985 and RCW 35.20.220 are each amended to read as follows:

(1) The chief clerk, under the supervision and direction of the court administrator of the municipal court, shall have the custody and care of the books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to his office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all money received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor.

(2) The city treasurer shall remit monthly thirty-two percent of the money received under this section, other than for parking infractions and certain costs ((~~awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute;~~)) to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160,

10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

Passed the House February 15, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 170

[House Bill No. 1836]

AFDC—SELF-SUFFICIENT THROUGH SELF-EMPLOYMENT FEDERAL WAIVERS

AN ACT Relating to economic development; adding a new section to chapter 74.12 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The health of our state's economy requires the promotion of entrepreneurship and new enterprise development as well as the retention of existing jobs. Encouraging families who are recipients of aid to families with dependent children to become self-sufficient through self-employment will improve the lives of citizens in this state.

NEW SECTION. Sec. 2. A new section is added to chapter 74.12 RCW to read as follows:

The secretary of social and health services shall seek an exception to federal law under the waiver authorities set forth in the federal social security act, 42 U.S.C. Sec. 301 et seq., for the purposes of allowing recipients of aid to families with dependent children to become self-employed in a manner that will lead to economic independence. The application for waivers shall be sought by October 1, 1988.

If the waivers are obtained, the department shall adopt rules that allow a recipient to separate business assets from personal assets during a start-up period not exceeding two years. The rules shall provide for evaluation of business progress during the start-up period and, if it appears to the department that sufficient income exists to provide an adequate income to replace the aid to families with dependent children, the recipient has the burden of showing why the recipient is not ready to terminate the aid prior to the expiration of the start-up period.

The rules shall also provide for deductions from income for business expenses including but not limited to capital expenditures, payments on the principal of loans to the business and reasonable amounts for cash reserves.

Any program operated under this section shall be operated in cooperation with any demonstration project on self-entrepreneurship operated by the employment security department.

Passed the House March 8, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 171

[Substitute Senate Bill No. 6264]
INFECTIOUS WASTES

AN ACT Relating to the management and disposal of infectious wastes; 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 that the potential risks to the public health from inadequate management, treatment, and disposal of waste capable of producing an infectious disease have not been adequately assessed to date; that the sources for such material entering the waste stream are diverse and increasing, particularly as more home health care will increase the generation of residential wastes which may be capable of transmitting infectious diseases; that new technologies and regulatory requirements for the management, treatment, and disposal of solid waste may affect the level of risks regarding infectious wastes in specific circumstances; and that infectious wastes may ultimately be disposed of in a variety of media, including landfills, sewer systems, or as airborne particulate matter. Therefore, the legislature declares that it is in the interests of public health to expeditiously assess the risks regarding management and disposal of infectious wastes and to take necessary state action to ensure that such risks are addressed.

NEW SECTION. Sec. 2. (1) The department of ecology shall prepare and transmit to the legislature by January 1, 1990, a report containing:

(a) An assessment of the risks to public health due to the presence of waste capable of producing an infectious disease, including an identification of the diseases presenting the most serious risks, an identification of the components of the waste stream having the highest risks to public health, and the sources of such waste. In conducting this assessment the department of ecology shall particularly review the sources of infectious waste from health care facilities and sources of infectious waste from home health care activities;

(b) A review of current waste management, transport, treatment, and disposal practices as they relate to potentially infectious wastes, including the adequacy of existing state, local, and federal regulatory programs to assure protection of public health;

(c) A review of preferred waste management practices, including new technologies, that minimize the risks to public health of infectious wastes, and recommendations regarding health care facility practices that will minimize the production of infectious wastes or will disinfect the wastes on-site, or other alternatives to minimize public health risks;

(d) A cost analysis for those preferred waste management practices involving implementation by units of local government; and

(e) Recommendations for legislation and appropriations necessary to effect any enhanced regulatory programs to minimize the public health risks of infectious wastes.

(2) The report shall be prepared with the assistance of the department of social and health services, which shall be primarily responsible for an assessment of existing waste management practices of health care facilities and an assessment of the environmental transmission of infectious agents in media that include solid, liquid, or airborne wastes. The department of ecology and the department of social and health services may jointly determine lead responsibilities for the balance of the report and may include in the report any additional information and recommendations useful to address this issue.

(3) The departments of ecology and social and health services shall consult with local health departments and representatives of the health care, solid waste, and waste water management industries in the preparation of the report.

NEW SECTION. Sec. 3. This act shall expire on January 1, 1990.

Passed the Senate February 9, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 21, 1988.
Filed in Office of Secretary of State March 21, 1988.

CHAPTER 172

[Substitute Senate Bill No. 6452]

HIGH SCHOOL GRADUATION REQUIREMENTS—SIGN LANGUAGE—COLLEGE ADMISSION STANDARDS

AN ACT Relating to foreign language requirements; and amending RCW 28A.05.060, 28A.05.070, 28A.70.005, and 28B.80.350.

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

Sec. 1. Section 6, chapter 278, Laws of 1984 as amended by section 2, chapter 384, Laws of 1985 and RCW 28A.05.060 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students who commence the ninth grade subsequent to July 1, 1985, that meet or exceed the following:

SUBJECT	CREDITS
English	3
Mathematics	2
Social Studies	
United States history and government	1
Washington state history and government	1/2
Contemporary world history, geography, and problems	1
Science (1 credit must be in laboratory science)	2
Occupational Education	1
Physical Education	2
Electives	5 1/2
Total	18

(2) For the purposes of this section one credit is equivalent to one year of study.

(3) The Washington state history and government requirement may be fulfilled by students in grades seven or eight or both. Students who have completed the Washington state history and government requirement in grades seven or eight or both shall be considered to have fulfilled the Washington state history and government requirement.

(4) A candidate for graduation must have in addition earned a minimum of 18 credits including all required courses. These credits shall consist of the state requirements listed above and such additional requirements and electives as shall be established by each district.

(5) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(6) Pursuant to any foreign language requirement established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in sign language

shall be considered to have satisfied the state or local school district foreign language graduation requirement.

Sec. 2. Section 16, chapter 278, Laws of 1984 and RCW 28A.05.070 are each amended to read as follows

(1) All public high schools of the state shall provide a program, directly or otherwise, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW ((~~28B.10.045~~)) 28B.10.050.

(2) The state board of education, upon request from local school districts, shall be authorized to grant temporary exemptions from providing the program described in subsection (1) of this section for reasons relating to school district size and availability of staff authorized to teach subjects which must be provided.

Sec. 3. 28A.70.005, chapter 223, Laws of 1969 ex. sess. as last amended by section 8, chapter 486, Laws of 1987 and RCW 28A.70.005 are each amended to read as follows:

The state board of education shall establish, publish and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The rules shall require that the initial application for certification shall require a background check of the applicant through the Washington state patrol criminal identification system at the applicant's expense.

In establishing rules pertaining to the qualifications of instructors of sign language the state board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations.

Sec. 4. Section 6, chapter 370, Laws of 1985 and RCW 28B.80.350 are each amended to read as follows:

The board shall coordinate educational activities among all segments of higher education taking into account the educational programs, facilities, and other resources of both public and independent two and four-year colleges and universities. The four-year institutions((;)) and the state board for

community college education((~~, and the commission for vocational education~~)) shall coordinate information and activities with the board. The board shall have the following additional responsibilities:

(1) Promote interinstitutional cooperation;

(2) Establish minimum admission standards for four-year institutions, including a requirement that coursework in sign language shall satisfy any foreign language requirement the board or the institutions may establish as a general undergraduate admissions requirement;

(3) Establish transfer policies;

(4) Adopt rules implementing statutory residency requirements;

(5) Develop and administer reciprocity agreements with bordering states and the province of British Columbia;

(6) Review and recommend compensation practices and levels for administrative employees, exempt under chapter 28B.16 RCW, and faculty using comparative data from peer institutions;

(7) Monitor higher education activities for compliance with all relevant state policies for higher education;

(8) Arbitrate disputes between and among four-year institutions or between and among four-year institutions and community colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the board shall be binding on the participants in the dispute;

(9) Establish and implement a state system for collecting, analyzing, and distributing information;

(10) Recommend to the governor and the legislature ways to remove any economic incentives to use off-campus program funds for on-campus activities; and

(11) Make recommendations to increase minority participation, and monitor and report on the progress of minority participation in higher education.

Passed the Senate March 7, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 173

[Engrossed Substitute Senate Bill No. 6433]

PHENYLKETONURIA

AN ACT Relating to insurance and health care services; 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 declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.20 RCW to read as follows:

(1) The legislature finds that:

(a) Phenylketonuria is a rare inherited genetic disorder.

(b) Children with phenylketonuria are unable to metabolize an essential amino acid, phenylalanine, which is found in the proteins of most food.

(c) To remain healthy, children with phenylketonuria must maintain a strict diet and ingest a mineral and vitamin–enriched formula.

(d) Children who do not maintain their diets with the formula acquire severe mental and physical difficulties.

(e) Originally, the formulas were listed as prescription drugs but were reclassified as medical foods to increase their availability.

(2) Subject to requirements and exceptions which may be established by rules adopted by the commissioner, any disability insurance contract delivered or issued for delivery or renewed in this state on or after September 1, 1988, that insures for hospital or medical expenses shall provide coverage for the formulas necessary for the treatment of phenylketonuria.

NEW SECTION. Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

(1) The legislature finds that:

(a) Phenylketonuria is a rare inherited genetic disorder.

(b) Children with phenylketonuria are unable to metabolize an essential amino acid, phenylalanine, which is found in the proteins of most food.

(c) To remain healthy, children with phenylketonuria must maintain a strict diet and ingest a mineral and vitamin–enriched formula.

(d) Children who do not maintain their diets with the formula acquire severe mental and physical difficulties.

(e) Originally, the formulas were listed as prescription drugs but were reclassified as medical foods to increase their availability.

(2) Subject to requirements and exceptions which may be established by rules adopted by the commissioner, any group disability insurance contract delivered or issued for delivery or renewed in this state on or after September 1, 1988, that insures for hospital or medical expenses shall provide coverage for the formulas necessary for the treatment of phenylketonuria.

NEW SECTION. Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

(1) The legislature finds that:

(a) Phenylketonuria is a rare inherited genetic disorder.

(b) Children with phenylketonuria are unable to metabolize an essential amino acid, phenylalanine, which is found in the proteins of most food.

(c) To remain healthy, children with phenylketonuria must maintain a strict diet and ingest a mineral and vitamin–enriched formula.

(d) Children who do not maintain their diets with the formula acquire severe mental and physical difficulties.

(e) Originally, the formulas were listed as prescription drugs but were reclassified as medical foods to increase their availability.

(2) Subject to requirements and exceptions which may be established by rules adopted by the commissioner, any contract for health care services delivered or issued for delivery or renewed in this state on or after September 1, 1988, shall provide coverage for the formulas necessary for the treatment of phenylketonuria.

NEW SECTION. Sec. 4. A new section is added to chapter 48.46 RCW to read as follows:

(1) The legislature finds that:

(a) Phenylketonuria is a rare inherited genetic disorder.

(b) Children with phenylketonuria are unable to metabolize an essential amino acid, phenylalanine, which is found in the proteins of most food.

(c) To remain healthy, children with phenylketonuria must maintain a strict diet and ingest a mineral and vitamin–enriched formula.

(d) Children who do not maintain their diets with the formula acquire severe mental and physical difficulties.

(e) Originally, the formulas were listed as prescription drugs but were reclassified as medical foods to increase their availability.

(2) Subject to requirements and exceptions which may be established by rules adopted by the commissioner, any agreement for health care services delivered or issued for delivery or renewed in this state on or after September 1, 1988, shall provide coverage for the formulas necessary for the treatment of phenylketonuria. Such formulas shall be covered when deemed medically necessary by the medical director or his or her designee of the health maintenance organization and if provided by the health maintenance organization or upon the health maintenance organizations's referral. Formulas shall be covered at the usual and customary rates for such formulas, subject to contract provisions with respect to deductible amounts or co–payments.

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 February 15, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 174

[Substitute Senate Bill No. 6181]

EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM—COMMUNITY PARTNERSHIPS

AN ACT Relating to the early childhood education and assistance program; amending RCW 28A.34A.020, 28A.34A.030, 28A.34A.040, 28A.34A.050, 28A.34A.060, 28A.34A.070, 28A.34A.080, and 28A.34A.110; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the early childhood education and assistance program provides for the educational, social, health, nutritional, and cultural development of children at risk of failure when they reach school age. The long-term benefits to society in the form of greater educational attainment, employment, and projected lifetime earnings as well as the savings to be realized, from lower crime rates, welfare support, and reduced teenage pregnancy, have been demonstrated through lifelong research of at-risk children and preschool programs.

The legislature further finds that existing federal head start programs and state-supported early childhood education programs provide services for less than one-third of the eligible children in Washington.

The legislature intends to encourage development of community partnerships for children at risk by authorizing a program of voluntary grants and contributions from business and community organizations to increase opportunities for children to participate in early childhood education.

Sec. 2. Section 2, chapter 418, Laws of 1985 and RCW 28A.34A.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 committee" means the advisory committee under RCW 28A.34A.050.

(2) "At risk" means a child ((~~at least four years of age and~~)) not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal head start program.

(3) "Department" means the department of community development.

(4) "Eligible child" means an at-risk child as defined in this section who is not a participant in a federal or state program providing like educational services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the preschool program.

(5) "Approved preschool programs" means those state-supported education and special assistance programs which are recognized by the department of community development as meeting the minimum program rules adopted by the department to qualify under this chapter and are designated

as eligible for funding by the department under RCW 28A.34A.070 and 28A.34A.090.

Sec. 3. Section 3, chapter 418, Laws of 1985 and RCW 28A.34A.030 are each amended to read as follows:

The department of community development shall administer a state-supported preschool education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved preschool programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds.

Sec. 4. Section 4, chapter 418, Laws of 1985 and RCW 28A.34A.040 are each amended to read as follows:

Approved preschool programs shall receive state-funded support through the department. School districts, and existing head start grantees in cooperation with school districts, are eligible to participate as providers of the state preschool program. School districts may contract with other governmental or nongovernmental nonsectarian organizations to conduct a portion of the state program. Funds appropriated for the state program shall be used to establish new or expanded preschool programs, and shall not be used to supplant federally supported head start programs. Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained, but shall not be used to supplant federally supported head start programs or state supported preschool programs. Persons applying to conduct the preschool program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

Sec. 5. Section 5, chapter 418, Laws of 1985 and RCW 28A.34A.050 are each amended to read as follows:

The department shall establish an advisory committee composed of interested parents and representatives from the state board of education, the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the

establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program.

Sec. 6. Section 6, chapter 418, Laws of 1985 as amended by section 101, chapter 518, Laws of 1987 and RCW 28A.34A.060 are each amended to read as follows:

The department shall adopt rules under chapter 34.04 RCW for the ((establishment)) administration of the preschool program((, not later than six months after the effective date of this act)). Federal head start program criteria, including set aside provisions for the children of seasonal and migrant farmworkers and native American populations living either on or off reservation, to the extent practicable, shall be considered as guidelines for the state preschool early childhood assistance program.

The department in developing rules for the preschool program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other preschool programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the preschool programs to provide for parental involvement at a level not less than that provided under the federal head start program criteria.

Sec. 7. Section 7, chapter 418, Laws of 1985 and RCW 28A.34A.070 are each amended to read as follows:

The department shall review applications ((received within nine months after the effective date of this act, and designate those programs eligible to commence operation within two months of such date)) from public or private nonsectarian organizations for state funding of early childhood education and assistance programs and award funds on a competitive basis as determined by department rules.

Sec. 8. Section 8, chapter 418, Laws of 1985 and RCW 28A.34A.080 are each amended to read as follows:

The governor shall report to the legislature before ((the convening of the)) each regular session of the legislature ((which commences after at least a year from the effective date of this act)) convening in an odd-numbered year, on the merits of continuing and expanding the preschool program or instituting other means of providing early childhood development assistance. The office of the superintendent of public instruction shall assist the governor in the preparation of the biennial report and shall be consulted on all issues addressed in said report. ((This report shall consider the experiences of federal and state preschool programs and address the preschool education recommendations submitted to the legislature during 1985.))

If the governor recommends the continuation of a state-funded preschool program, then the governor's report shall include specific recommendations on at least the following issues:

(1) The desired relationships of a state-funded preschool education and assistance program with the common school system;

(2) The types of children and their needs that the program should serve;

(3) The appropriate level of state support for implementing a comprehensive preschool education and assistance program for all eligible children, including related programs to prepare instructors and provide facilities, equipment, and transportation;

(4) The state administrative structure necessary to implement the program; and

(5) The establishment of a system to examine and monitor the effectiveness of preschool educational and assistance services for disadvantaged children to measure, among other elements, if possible, how the children completing this program compare to the average level of performance of all state students in their grade level, and to those at-risk students who do not have access to this program. The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the percentage of at-risk students who do not have access to this program needing such services.

Sec. 9. Section 11, chapter 418, Laws of 1985 and RCW 28A.34A.110 are each amended to read as follows:

The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the preschool state education and assistance program established by this ((~~act~~)) chapter. The department shall actively solicit support from business and industry and from the federal government for the preschool state education and assistance program and shall assist local programs in developing partnerships with the community for children-at-risk.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

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 Senate February 12, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 175

[Engrossed Substitute Senate Bill No. 6446]

STATE PURCHASING OF RECOVERED MATERIALS—EDUCATIONAL MATERIALS ON HOUSEHOLD WASTE REDUCTION AND RECYCLING

AN ACT Relating to procurement of recovered materials; amending RCW 43.19.537 and 43.19.538; adding a new section to chapter 70.95 RCW; making an appropriation; and providing an effective date.

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

Sec. 1. Section 1, chapter 61, Laws of 1982 and RCW 43.19.537 are each amended to read as follows:

((~~Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.19.538.~~

~~(1) "Postconsumer waste"~~)) "Recovered material" as used in RCW 43.19.538 means ((~~a finished paper, woodpulp material, or cotton rags which would normally be disposed of as solid waste.~~

~~(2) "Recycled paper" means paper and woodpulp products with at least fifty percent of the total weight consisting of postconsumer waste~~)):

(1) "Post consumer waste" which is:

(a) Paper, paperboard, and fibrous wastes from buildings such as retail stores, office buildings, homes, after the wastes have passed through their end-usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage; and

(b) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and

(c) All other items containing plastics, yard waste, metals, glass, rubber, oil, or any other material that is suitable as feedstock in product manufacture; and

(2) "Secondary waste" including manufacturing and other wastes such as:

(a) Dry paper and paperboard waste generated after completion of the papermaking process, that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock;

(b) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(c) Wastes generated by the conversion of goods made from fibrous material, that is, waste rope from cordage manufacture, textile mill waste, and cuttings; and

(d) Fibers recovered from waste water which otherwise would enter the waste stream.

Sec. 2. Section 2, chapter 61, Laws of 1982 as amended by section 26, chapter 505, Laws of 1987 and RCW 43.19.538 are each amended to read as follows:

(1) The director of general administration, through the state purchasing director, shall develop specifications and adopt rules for the purchase of ((paper)) products which will provide for preferential purchase((~~, when feasible, of paper~~)) of products containing ((~~recycled paper. The specifications shall include~~)) recovered material by:

(a) ((~~Giving preference to suppliers of recycled paper products if the bids do not exceed the lowest bid offered by suppliers of paper products that are not recycled~~)) The use of a weighting factor determined by the amount of recovered material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recovered material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) ((~~Requiring paper products with the highest quantity of postconsumer waste.~~

~~(c) Requiring paper products that may be recycled or reused to be purchased if the quality, price, and grade are otherwise equal to other paper products.~~)) Requiring a written statement of the percentage range of recovered material content from the bidder providing products containing recovered material. The range may be stated in fifteen percent increments.

(2) The ((~~recycled paper content specifications shall be reviewed annually to consider increasing the percentage of recycled paper~~)) director shall develop a directory of businesses that supply products containing significant quantities of recovered materials.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recovered materials.

NEW SECTION. Sec. 3. A new section is added to chapter 70.95 RCW to read as follows:

The department of ecology, at the request of a local government jurisdiction, may periodically provide educational material promoting household

waste reduction and recycling to public and private refuse haulers. The educational material shall be distributed to households receiving refuse collection service by local governments or the refuse hauler providing service. The refuse hauler may distribute the educational material by any means that assures timely delivery.

Reasonable expenses incurred in the distribution of this material shall be considered, for rate-making purposes, as legitimate operating expenses of garbage and refuse haulers regulated under chapter 81.77 RCW.

NEW SECTION. Sec. 4. This act shall take effect July 1, 1988.

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 176

[Engrossed Substitute House Bill No. 1618]
DEVELOPMENTAL DISABILITIES

AN ACT Relating to reorganization and clarification of the laws governing developmental disabilities; amending RCW 13.34.030, 43.20B.410, 43.20B.420, 43.20B.425, 43.20B.430, 43.20B.440, 43.20B.445, 43.20B.455, 43.51.055, 71.20.110, 71.28.010, 74.15.020, 74.20A.030, 77.32.230, and 82.04.385; adding a new title to the Revised Code of Washington; creating new sections; and repealing RCW 71.20.010, 71.20.016, 71.20.020, 71.20.030, 71.20.040, 71.20.050, 71.20.060, 71.20.070, 71.20.075, 71.20.080, 71.20.090, 71.30.010, 71.30.020, 71.30.030, 72.30.010, 72.30.020, 72.30.030, 72.30.040, 72.30.050, 72.33.010, 72.33.020, 72.33.030, 72.33.040, 72.33.050, 72.33.070, 72.33.080, 72.33.090, 72.33.100, 72.33.110, 72.33.125, 72.33.130, 72.33.140, 72.33.150, 72.33.161, 72.33.165, 72.33.170, 72.33.180, 72.33.190, 72.33.200, 72.33.210, 72.33.220, 72.33.230, 72.33.240, 72.33.260, 72.33.500, 72.33.510, 72.33.520, 72.33.530, 72.33.540, 72.33.550, 72.33.560, 72.33.570, 72.33.580, 72.33.590, 72.33.800, 72.33.805, 72.33.810, 72.33.815, 72.33.820, 72.33.830, 72.33.840, 72.33.850, 72.33.860, and 72.33.900.

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

NEW SECTION. Sec. 1. The legislature finds that the statutory authority for the programs, policies, and services of the department of social and health services for persons with developmental disabilities often lack clarity and contain internal inconsistencies. In addition, existing authority is in several chapters of the code and frequently contains obsolete language not reflecting current use. The legislature declares that it is in the public interest to unify and update statutes for programs, policies, and services provided to persons with developmental disabilities.

The legislature intends to recodify the authority for the programs, policies, and services for persons with developmental disabilities. This recodification is not intended to affect existing programs, policies, and services, nor to establish any new program, policies, or services not otherwise authorized before the effective date of this act. The legislature intends to provide only those services authorized under state law before the effective date of this act and only to the extent funds are provided by the legislature.

Part 1
GENERAL PROVISIONS

NEW SECTION. Sec. 101. DECLARATION OF POLICY. The legislature recognizes the capacity of all persons, including those with developmental disabilities, to be personally and socially productive. The legislature further recognizes the state's obligation to provide aid to persons with developmental disabilities through a uniform, coordinated system of services to enable them to achieve a greater measure of independence and fulfillment and to enjoy all rights and privileges under the constitution and laws of the United States and the state of Washington.

NEW SECTION. Sec. 102. DEFINITIONS. As used in this title, the following terms have the meanings indicated unless the context clearly requires otherwise.

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

(2) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole determinate of these conditions, and notify the legislature of this action.

(3) "Eligible person" means a person who has been found by the secretary under section 404 of this act to be eligible for services.

(4) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(5) "Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

(6) "Notice" or "notification" of an action of the secretary means notice in compliance with section 106 of this act.

(7) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by sections 701 through 716 of this act.

(8) "Secretary" means the secretary of social and health services or the secretary's designee.

(9) "Service" or "services" means services provided by state or local government to carry out this title.

NEW SECTION. Sec. 103. CIVIL AND PARENTAL RIGHTS NOT AFFECTED. (1) The existence of developmental disabilities does not affect the civil rights of the person with the developmental disability except as otherwise provided by law.

(2) The secretary's determination under section 404 of this act that a person is eligible for services under this title shall not deprive the person of any civil rights or privileges. The secretary's determination alone shall not constitute cause to declare the person to be legally incompetent.

(3) This title shall not be construed to deprive the parent or parents of any parental rights with relation to a child residing in a residential habilitation center, except as provided in this title for the orderly operation of such residential habilitation centers.

NEW SECTION. Sec. 104. PROTECTION OF PERSONS WITH DEVELOPMENTAL DISABILITY FROM DISCRIMINATION. Persons are protected from discrimination because of a developmental disability as well as other mental or physical handicaps by the law against discrimination, chapter 49.60 RCW, by other state and federal statutes, rules, and regulations, and by local ordinances, when the persons qualify as handicapped under those statutes, rules, regulations, and ordinances.

NEW SECTION. Sec. 105. HEARINGS. An applicant or recipient or former recipient of a developmental disabilities service under this title from the department of social and health services has the right to appeal the following adverse decisions:

(1) A denial of an application for eligibility;

(2) An unreasonable delay in acting on an application for eligibility, for a service, or for an alternative service under section 604 of this act;

(3) A denial, reduction, or termination of a service; and

(4) A claim that the person owes a debt to the state for an overpayment.

(5) A disagreement with an action of the secretary under section 106 of this act.

The hearing is governed by the administrative procedure act, chapter 34.04 RCW.

NEW SECTION. Sec. 106. MANNER OF GIVING NOTICE OF ACTION BY SECRETARY. (1) Whenever this title requires the secretary to give notice, the secretary shall give notice to the person with a developmental disability and, except as provided in subsection (3) of this section, to at least one other person. The other person shall be the first person known to the secretary in the following order of priority:

(a) A legal representative of the person with a developmental disability;

(b) A parent of a person with a developmental disability who is eighteen years of age or older;

(c) Other kin of the person with a developmental disability, with preference to persons with the closest kinship;

(d) The Washington protection and advocacy system for the rights of persons with developmental disabilities, appointed in compliance with 42 U.S.C. Sec. 6042; or

(e) A person who is not an employee of the department or of a person who contracts with the department under this title who, in the opinion of the secretary, will be concerned with the welfare of the person.

(2) Notice to a person with a developmental disability shall be given in a way that the person is best able to understand. This can include reading or explaining the materials to the person.

(3) A person with a developmental disability may in writing request the secretary to give notice only to that person. The secretary shall comply with that direction unless the secretary denies the request because the person may be at risk of losing rights if the secretary complies with the request. The secretary shall give notice as provided in subsections (1) and (2) of this section. On filing a request with the secretary within thirty days of receipt of the notice, the person who made the request may have a hearing under section 105 of this act on the secretary's decision.

(4) The giving of notice to a person under this title does not empower the person who is given notice to take any action or give any consent.

NEW SECTION. Sec. 107. PROCEDURE WHEN SECRETARY HAS DUTY TO CONSULT. (1) Whenever this title places on the secretary the duty to consult, the secretary shall carry out that duty by consulting with the person with a developmental disability and, except as provided in subsection (2) of this section, with at least one other person. The other person shall be in order of priority:

(a) A legal representative of the person with a developmental disability;

(b) A parent of a person with a developmental disability who is eighteen years of age or older;

(c) Other kin of the person with a developmental disability, with preference to persons with the closest kinship;

(d) The Washington protection and advocacy system for the rights of persons with developmental disabilities, appointed in compliance with 42 U.S.C. Sec. 6042; or

(e) Any other person who is not an employee of the department or of a person who contracts with the department under this title who, in the opinion of the secretary, will be concerned with the welfare of the person.

(2) A person with a developmental disability may in writing request the secretary to consult only with that person. The secretary shall comply

with that direction unless the secretary denies the request because the person may be at risk of losing rights if the secretary complies with the request. The secretary shall give notice as provided in section 106 of this act when a request is denied. On filing a request with the secretary within thirty days of receipt of the notice, the person who made the request shall have the right to a hearing under section 105 of this act on the secretary's decision.

(3) Consultation with a person under this section does not authorize the person who is consulted to take any action or give any consent.

Part 2

POWERS AND DUTIES OF STATE AGENCIES

NEW SECTION. Sec. 201. COMPREHENSIVE STATE AND LOCAL PROGRAM. It is declared to be the policy of the state to authorize the secretary to develop and coordinate state services for persons with developmental disabilities; to encourage research and staff training for state and local personnel working with persons with developmental disabilities; and to cooperate with communities to encourage the establishment and development of services to persons with developmental disabilities through locally administered and locally controlled programs.

The complexities of developmental disabilities require the services of many state departments as well as those of the community. Services should be planned and provided as a part of a continuum. A pattern of facilities and services should be established, within appropriations designated for this purpose, which is sufficiently complete to meet the needs of each person with a developmental disability regardless of age or degree of handicap, and at each stage of the person's development.

NEW SECTION. Sec. 202. OBJECTIVES OF PROGRAM. (1) To the extent that state, federal, or other funds designated for services to persons with developmental disabilities are available, the secretary shall provide every eligible person with habilitative services suited to the person's needs, regardless of age or degree of developmental disability.

(2) The secretary shall provide persons who receive services with the opportunity for integration with nonhandicapped and less handicapped persons to the greatest extent possible.

(3) The secretary shall establish minimum standards for habilitative services. Consumers, advocates, service providers, appropriate professionals, and local government agencies shall be involved in the development of the standards.

NEW SECTION. Sec. 203. GENERAL AUTHORITY OF SECRETARY. The secretary is authorized to provide, or arrange with others to provide, all services and facilities that are necessary or appropriate to accomplish the purposes of this title, and to take all actions that are necessary or appropriate to accomplish the purposes of this title. The secretary shall

adopt rules under the administrative procedure act, chapter 34.04 RCW, as are appropriate to carry out this title.

NEW SECTION. Sec. 204. EXAMPLES OF AUTHORIZED SERVICES. Services that the secretary may provide or arrange with others to provide under this title include, but are not limited to:

(1) Architectural services;
(2) Case management services;
(3) Early childhood intervention;
(4) Employment services;
(5) Family counseling;
(6) Family support;
(7) Information and referral;
(8) Health services and equipment;
(9) Legal services;
(10) Residential services and support;
(11) Respite care;
(12) Therapy services and equipment;
(13) Transportation services; and
(14) Vocational services.

NEW SECTION. Sec. 205. PAYMENTS FOR NONRESIDENTIAL SERVICES. The secretary may make payments for nonresidential services which exceed the cost of caring for an average individual at home, and which are reasonably necessary for the care, treatment, maintenance, support, and training of persons with developmental disabilities, upon application pursuant to section 604 of this act. The secretary shall adopt rules determining the extent and type of care and training for which the department will pay all or a portion of the costs.

NEW SECTION. Sec. 206. PAYMENT AUTHORIZED. The secretary is authorized to pay for all or a portion of the costs of care, support, and training of residents of a residential habilitation center who are placed in community residential programs under this section and sections 207 and 208 of this act.

NEW SECTION. Sec. 207. PAYMENTS BY DEPARTMENT ARE SUPPLEMENTAL TO PAYMENTS FROM ESTATE OR OTHER RESOURCES OF RESIDENT——DIRECT PAYMENTS AUTHORIZED. All payments made by the secretary under section 206 of this act shall, insofar as reasonably possible, be supplementary to payments to be made for the costs of care, support, and training in a community residential program by the estate of such resident of the residential habilitation center, or from any resource which such resident may have, or become entitled to, from any public, federal, or state agency. Payments by the secretary under this title may, in the secretary's discretion, be paid directly to community residential

programs, or to counties having created developmental disability boards under sections 301 through 310 of this act.

NEW SECTION. Sec. 208. SECRETARY TO ADOPT RULES. (1) The secretary shall adopt rules concerning the eligibility of residents of residential habilitation centers for placement in community residential programs under this title; determination of ability of such persons or their estates to pay all or a portion of the cost of care, support, and training; the manner and method of licensing or certification and inspection and approval of such community residential programs for placement under this title; and procedures for the payment of costs of care, maintenance, and training in community residential programs. The rules shall include standards for care, maintenance, and training to be met by such community residential programs.

(2) The secretary shall coordinate state activities and resources relating to placement in community residential programs to help efficiently expend state and local resources and, to the extent designated funds are available, create an effective community residential program.

NEW SECTION. Sec. 209. SERVICES TO PARENT. If a person with developmental disabilities is the parent of a child who is about to be placed for adoption or foster care by the secretary, the parent shall be eligible to receive services in order to promote the integrity of the family unit.

NEW SECTION. Sec. 210. SECRETARY MAY PROVIDE ANCILLARY SERVICES. Consistent with the general powers of the secretary and whether or not a particular person with a developmental disability is involved, the secretary may:

(1) Provide information to the public on developmental disabilities and available services;

(2) Engage in research concerning developmental disabilities and the habilitation of persons with developmental disabilities, and cooperate with others who do such research;

(3) Provide consultant services to public and private agencies to promote and coordinate services to persons with developmental disabilities;

(4) Provide training for persons in state or local governmental agencies or with private entities who come in contact with persons with developmental disabilities or who have a role in the care or habilitation of persons with developmental disabilities.

NEW SECTION. Sec. 211. AUTHORITY TO CONTRACT FOR SERVICES. (1) The secretary may enter into agreements with any person, corporation, or governmental entity to pay the contracting party to perform services that the secretary is authorized to provide under this title, except for operation of residential habilitation centers under sections 701 through 716 of this act.

(2) The secretary by contract or by rule may impose standards for services contracted for by the secretary.

NEW SECTION. Sec. 212. AUTHORITY TO PARTICIPATE IN FEDERAL PROGRAMS. (1) The governor may take whatever action is necessary to enable the state to participate in the manner set forth in this title in any programs provided by any federal law and to designate state agencies authorized to administer within this state the several federal acts providing federal moneys to assist in providing services and training at the state or local level for persons with developmental disabilities and for persons who work with persons with developmental disabilities.

(2) Designated state agencies may apply for and accept and disburse federal grants, matching funds, or other funds or gifts or donations from any source available for use by the state or by local government to provide more adequate services for and habilitation of persons with developmental disabilities.

NEW SECTION. Sec. 213. GIFTS——ACCEPTANCE, USE, RECORD. The secretary may receive and accept from any person, organization, or estate gifts of money or personal property on behalf of a residential habilitation center, or the residents therein, or on behalf of the entire program for persons with developmental disabilities, or any part of the program, and to use the gifts for the purposes specified by the donor where such use is consistent with law. In the absence of a specified purpose, the secretary shall use such money or personal property for the general benefit of persons with developmental disabilities. The secretary shall keep an accurate record of the amount or kind of gift, the date received, manner expended, and the name and address of the donor. Any increase resulting from such gift may be used for the same purpose as the original gift.

NEW SECTION. Sec. 214. DUTIES OF STATE AGENCIES GENERALLY. Each state agency that administers federal or state funds for services to persons with developmental disabilities, or for research or staff training in the field of developmental disabilities, shall:

(1) Investigate and determine the nature and extent of services within its legal authority that are presently available to persons with developmental disabilities in this state;

(2) Develop and prepare any state plan or application which may be necessary to establish the eligibility of the state or any community to participate in any program established by the federal government relating to persons with developmental disabilities;

(3) Cooperate with other state agencies providing services to persons with developmental disabilities to determine the availability of services and facilities within the state, and to coordinate state and local services in order to maximize services to persons with developmental disabilities and their families;

(4) Review and approve any proposed plans that local governments are required to submit for the expenditure of funds by local governments for services to persons with developmental disabilities; and

(5) Provide consultant and staff training for state and local personnel working in the field of developmental disability.

NEW SECTION. Sec. 215. CONTRACTS WITH UNITED STATES AND OTHER STATES FOR SERVICES TO PERSONS. The secretary shall have the authority, in the name of the state, to enter into contracts with any duly authorized representative of the United States of America, or its territories, or other states for the provision of services under this title at the expense of the United States, its territories, or other states. The contracts may provide for the separate or joint maintenance, care, treatment, training, or education of persons. The contracts shall provide that all payments due to the state of Washington from the United States, its territories, or other states for services rendered under the contracts shall be paid to the department and transmitted to the state treasurer for deposit in the general fund.

Part 3

POWERS AND DUTIES OF LOCAL GOVERNMENT

NEW SECTION. Sec. 301. COORDINATED AND COMPREHENSIVE STATE AND LOCAL PROGRAM. The legislative policy to provide a coordinated and comprehensive state and local program of services for persons with developmental disability is expressed in section 201 of this act.

NEW SECTION. Sec. 302. DEVELOPMENTAL DISABILITY BOARDS AUTHORIZED——COMPOSITION——EXPENSES. (1) The county governing authority of any county may appoint a developmental disability board to plan services for persons with developmental disabilities, to provide directly or indirectly a continuum of care and services to persons with developmental disabilities within the county or counties served by the community board. The governing authorities of more than one county by joint action may appoint a single developmental disability board. Nothing in this section shall prohibit a county or counties from combining the developmental disability board with another county board, such as a mental health board.

(2) Members appointed to the board shall include but not be limited to representatives of public, private, or voluntary agencies, representatives of local governmental units, and citizens knowledgeable about developmental disabilities or interested in services to persons with developmental disabilities in the community.

(3) The board shall consist of not less than nine nor more than fifteen members.

(4) Members shall be appointed for terms of three years and until their successors are appointed and qualified.

(5) The members of the developmental disability board shall not be compensated for the performance of their duties as members of the board, but may be paid subsistence rates and mileage in the amounts prescribed by RCW 42.24.090.

NEW SECTION. Sec. 303. COUNTY AUTHORITIES——ELIGIBILITY, APPLICATION FOR STATE FUNDS. Pursuant to section 304 of this act the secretary shall work with the county governing authorities and developmental disability boards who apply for state funds to coordinate and provide local services for persons with developmental disabilities and their families. The secretary is authorized to promulgate rules establishing the eligibility of each county and the developmental disability board for state funds to be used for the work of the board in coordinating and providing services to persons with developmental disabilities and their families. An application for state funds shall be made by the board with the approval of the county governing authority, or by the county governing authority on behalf of the board.

NEW SECTION. Sec. 304. CONSIDERATION OF APPLICATIONS FOR STATE FUNDS——RULES. The secretary shall review the applications from the county governing authority made under section 303 of this act. The secretary may approve an application if it meets the requirements of this chapter and the rules promulgated by the secretary. The secretary shall promulgate rules to assist in determining the amount of the grant. In promulgating the rules, the secretary shall consider the population of the area served, the needs of the area, and the ability of the community to provide funds for the developmental disability program provided in this title.

NEW SECTION. Sec. 305. SERVICES TO COMMUNITY. The department may require by rule that in order to be eligible for state funds, the county and the developmental disability board shall provide the following indirect services to the community:

(1) Serve as an informational and referral agency within the community for persons with developmental disabilities and their families;

(2) Coordinate all local services for persons with developmental disabilities and their families to insure the maximum utilization of all available services;

(3) Prepare comprehensive plans for present and future development of services and for reasonable progress toward the coordination of all local services to persons with developmental disabilities.

NEW SECTION. Sec. 306. AUTHORITY TO PROVIDE SERVICES. The secretary by rule may authorize the county and the developmental disability board to provide any service for persons with

developmental disabilities that the department is authorized to provide, except for operating residential habilitation centers under sections 701 through 716 of this act.

NEW SECTION. Sec. 307. CONFIDENTIALITY OF INFORMATION. In order for the developmental disability board to plan, coordinate, and provide required services for persons with developmental disabilities, the county governing authority and the board shall be eligible to obtain such confidential information from public or private schools and the department as is necessary to accomplish the purposes of this chapter (sections 301 through 311 of this act). Such information shall be kept in accordance with state law and rules promulgated by the secretary under chapter 34.04 RCW to permit the use of the information to coordinate and plan services. All persons permitted to have access to or to use such information shall sign an oath of confidentiality, substantially as follows:

"As a condition of obtaining information from (fill in 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 using such confidential information, where release of such information may possibly make the person who received such services identifiable. I recognize that unauthorized release of confidential information may subject me to civil liability under state law."

NEW SECTION. Sec. 308. AUTHORITY TO RECEIVE AND SPEND GRANTS AND DONATIONS. The county governing authority and the developmental disability board created under section 302 of this act are authorized to receive and spend funds received from the state under this chapter (sections 301 through 311 of this act), or any federal funds received through any state agency, or any gifts or donations received by it for the benefit of persons with developmental disabilities.

NEW SECTION. Sec. 309. AUTHORITY TO PARTICIPATE IN FEDERAL PROGRAMS. Section 212 of this act authorizes local governments to participate in federal programs for persons with developmental disabilities.

NEW SECTION. Sec. 310. FUNDS FROM TAX LEVY. Counties are authorized by RCW 71.20.110 to fund county activities under this chapter (sections 301 through 311 of this act). Expenditures of county funds under this chapter (sections 301 through 311 of this act) shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties.

NEW SECTION. Sec. 311. CONTRACTS BY BOUNDARY COUNTIES OR CITIES IN BOUNDARY COUNTIES. Any county or city within a county either of which is situated on the state boundaries is authorized to contract for developmental disability services with a county

situated in either the states of Oregon or Idaho, which county is located on boundaries with the state of Washington.

Part 4
ELIGIBILITY FOR SERVICES

NEW SECTION. Sec. 401. SINGLE POINT OF REFERRAL. It is the intention of the legislature in this chapter (sections 401 through 405 of this act) to establish a single point of referral for persons with developmental disabilities and their families so that they may have a place of entry and continuing contact for services authorized under this title to persons with developmental disabilities.

NEW SECTION. Sec. 402. WHO IS ELIGIBLE FOR SERVICES. (1) A person is eligible for services under this title if the secretary finds that the person has a developmental disability as defined in section 102(2) of this act.

(2) The secretary may adopt rules further defining and implementing the criteria in the definition of "developmental disability" under section 102(2) of this act.

NEW SECTION. Sec. 403. HOW TO APPLY FOR A DETERMINATION OF ELIGIBILITY. (1) The secretary shall establish a single procedure for persons to apply for a determination of eligibility for services provided to persons with developmental disabilities.

(2) An application may be submitted by a person with a developmental disability, by the legal representative of a person with a developmental disability, or by any other person who is authorized by rule of the secretary to submit an application.

NEW SECTION. Sec. 404. DETERMINATION OF ELIGIBILITY. (1) On receipt of an application submitted under section 403 of this act, the secretary in a timely manner shall make a written determination as to whether the applicant is eligible for services provided under this title for persons with developmental disabilities.

(2) The secretary shall give notice of the secretary's determination on eligibility to the person who submitted the application, and to the applicant, if the applicant is a person other than the person who submitted the application. The notice shall also include notice of the right to hearing provided by section 105 of this act and notice of the right to judicial review of the secretary's final decision.

(3) The secretary may establish rules for redetermination of eligibility for services under this title.

NEW SECTION. Sec. 405. EFFECT OF DETERMINATION OF ELIGIBILITY. The determination made under this chapter (sections 401 through 405 of this act) is only as to whether a person is eligible for services. After the secretary has determined under this chapter (sections 401

through 405 of this act) that a person is eligible for services, the secretary shall make a determination as to what services are appropriate for the person.

Part 5
INDIVIDUAL SERVICE PLANS

NEW SECTION. Sec. 501. INDIVIDUAL SERVICE PLANS AUTHORIZED. The secretary may produce and maintain an individual service plan for each eligible person. An individual service plan is a plan that identifies the needs of a person for services and determines what services will be in the best interests of the person and will meet the person's needs.

Part 6
DELIVERY OF SERVICES TO ELIGIBLE PERSONS

NEW SECTION. Sec. 601. WHEN SERVICES ARE DELIVERED. The secretary may provide a service to a person eligible under this title if funds are available. If there is an individual service plan, the secretary shall consider the need for services as provided in that plan.

NEW SECTION. Sec. 602. REJECTION OF SERVICE. An eligible person or the person's legal representative may reject an authorized service. Rejection of an authorized service shall not affect the person's eligibility for services and shall not eliminate the person from consideration for other services or for the same service at a different time or under different circumstances.

NEW SECTION. Sec. 603. APPLICATION FOR ALTERNATIVE SERVICE. (1) A person who is receiving a service under this title or the person's legal representative may request the secretary to authorize a service that is available under this title in place of a service that the person is presently receiving.

(2) The secretary upon receiving a request for change of service shall consult in the manner provided in section 107 of this act and within ninety days shall determine whether the following criteria are met:

(a) The alternative plan proposes a less dependent program than the person is participating in under current service;

(b) The alternative service is appropriate under the goals and objectives of the person's individual service plan;

(c) The alternative service is not in violation of applicable state and federal law; and

(d) The service can reasonably be made available.

(3) If the requested alternative service meets all of the criteria of subsection (2) of this section, the service shall be authorized as soon as reasonable, but not later than one hundred twenty days after completion of the determination process, unless the secretary determines that:

(a) The alternative plan is more costly than the current plan;

(b) Current appropriations are not sufficient to implement the alternative service without reducing services to existing clients; or

(c) Providing alternative service would take precedence over other priorities for delivery of service.

(4) The secretary shall give notice as provided in section 106 of this act of the grant of a request for a change of service. The secretary shall give notice as provided in section 106 of this act of denial of a request for change of service and of the right to a hearing.

(5) When the secretary has changed service from a residential habilitation center to a setting other than a residential habilitation center, the secretary shall reauthorize service at the residential habilitation center if the secretary in reevaluating the needs of the person finds that the person needs service in a residential habilitation center.

(6) If the secretary determines that current appropriations are sufficient to deliver additional services without reducing services to persons who are presently receiving services, the secretary is authorized to give persons notice under section 106 of this act that they may request the services as new services or as changes of services under this section.

NEW SECTION. Sec. 604. DISCONTINUANCE OF A SERVICE. (1) When considering the discontinuance of a service that is being provided to a person, the secretary shall consult as required in section 107 of this act.

(2) The discontinuance of a service under this section does not affect the person's eligibility for services. Other services may be provided or the same service may be restored when it is again available or when it is again needed.

(3) Except when the service is discontinued at the request of the person receiving the service or that person's legal representative, the secretary shall give notice as required in section 106 of this act.

Part 7
RESIDENTIAL HABILITATION CENTERS

NEW SECTION. Sec. 701. SCOPE OF CHAPTER. This chapter covers the operation of residential habilitation centers. The selection of persons to be served at the centers is governed by parts 4 and 6 of this act. The purposes of this chapter are: To provide for those children and adults who are exceptional in their needs for care, treatment, and education by reason of developmental disabilities, residential care designed to develop their individual capacities to their optimum; to provide for admittance, withdrawal and discharge from state residential habilitation centers upon application; and to insure a comprehensive program for the education, guidance, care, treatment, and rehabilitation of all persons admitted to residential habilitation centers.

NEW SECTION. Sec. 702. RESIDENTIAL HABILITATION CENTERS. The following residential habilitation centers are permanently established to provide services to persons with developmental disabilities: Interlake School, located at Medical Lake, Spokane county; Lakeland Village, located at Medical Lake, Spokane county; Rainier School, located at Buckley, Pierce county; Yakima Valley School, located at Selah, Yakima county; Fircrest School, located at Seattle, King county; and Frances Haddon Morgan Children's Center, located at Bremerton, Kitsap county.

NEW SECTION. Sec. 703. FACILITIES FOR INTERLAKE SCHOOL. (1) The secretary may use surplus physical facilities at Eastern State Hospital as a residential habilitation center, which shall be known as the "Interlake School."

(2) The secretary may designate and select such buildings and facilities and tracts of land at Eastern State Hospital that are surplus to the needs of the department for mentally ill persons and that are reasonably necessary and adequate for services for persons with developmental disabilities. The secretary shall also designate those buildings, equipment, and facilities which are to be used jointly and mutually by both Eastern State Hospital and Interlake School.

NEW SECTION. Sec. 704. AUTHORITY TO USE HARRISON MEMORIAL HOSPITAL PROPERTY. The secretary may under RCW 72.29.010 use the Harrison Memorial Hospital property at Bremerton, Kitsap county, for services to persons with developmental disabilities.

NEW SECTION. Sec. 705. SUPERINTENDENTS. (1) The secretary shall appoint a superintendent for each residential habilitation center. The superintendent of a residential habilitation center shall have a demonstrated history of knowledge, understanding, and compassion for the needs, treatment, and training of persons with developmental disabilities.

(2) The secretary shall have custody of all residents of the residential habilitation centers and control of the medical, educational, therapeutic, and dietetic treatment of all residents, except that the school district that conducts the program of education provided pursuant to RCW 28A.58.772 through 28A.58.776 shall have control of and joint custody of residents while they are participating in the program. The secretary shall cause surgery to be performed on any resident only upon gaining the consent of a parent, guardian, or limited guardian as authorized, except, if after reasonable effort to locate the parents, guardian, or limited guardian as authorized, and the health of the resident is certified by the attending physician to be jeopardized unless such surgery is performed, the required consent shall not be necessary.

NEW SECTION. Sec. 706. WORK PROGRAMS FOR RESIDENTS. The secretary shall have authority to engage the residents of a residential habilitation center in beneficial work programs, but the secretary

shall not engage residents in excessive hours of work or work for disciplinary purposes.

NEW SECTION. Sec. 707. EDUCATIONAL PROGRAMS. (1) An educational program shall be created and maintained for each residential habilitation center pursuant to RCW 28A.58.772 through 28A.58.776. The educational program shall provide a comprehensive program of academic, vocational, recreational, and other educational services best adapted to meet the needs and capabilities of each resident.

(2) The superintendent of public instruction shall assist the secretary in all feasible ways, including financial aid, so that the educational programs maintained within the residential habilitation centers are comparable to the programs advocated by the superintendent of public instruction for children with similar aptitudes in local school districts.

(3) Within available resources, the secretary shall, upon request from a local school district, provide such clinical, counseling, and evaluating services as may assist the local district lacking such professional resources in determining the needs of its exceptional children.

NEW SECTION. Sec. 708. RETURN OF RESIDENT TO COMMUNITY——PLACEMENT——HEARING——INITIAL DECISION——REVIEW BY SECRETARY——JUDICIAL REVIEW——EFFECT OF APPEAL ON IMPLEMENTATION OF PLACEMENT DECISION. Whenever in the judgment of the secretary, the treatment and training of any resident of a residential habilitation center has progressed to the point that it is deemed advisable to return such resident to the community, the secretary may grant placement on such terms and conditions as the secretary may deem advisable after notice to and consultation with the resident, and with any available parent, guardian, or other court-appointed personal representative of such person.

If the resident, parent of a resident who is a minor, or guardian or other court-appointed personal representative of the resident believes that the specific placement decision is not in the best interests of the resident, he or she may request a hearing before an administrative law judge appointed under chapter 34.12 RCW. A hearing before an administrative law judge under this section shall be conducted as a contested case under chapter 34.04 RCW. At the hearing, the administrative law judge shall make an initial decision determining whether the specific placement decision is in the best interests of the resident and was otherwise proper. The burden of proof shall be on the department to show that the specific placement decision is in the best interests of the resident. Any review of the administrative law judge's initial decision by the secretary when he or she makes the final decision shall be done on the same basis as specified under RCW 34.04.130 (5) and (6) for superior court review of an administrative decision and in addition findings and inferences to be sustained must be supported by substantial

evidence. The secretary cannot delegate the authority to make the final decision. Any person aggrieved by the final administrative decision is entitled to judicial review in accordance with the provisions of chapter 34.04 RCW governing judicial review in a contested case except that if substantial rights have been prejudiced, administrative findings, inferences, conclusions, or decisions may be reversed, modified, or remanded if not supported by substantial evidence rather than requiring them to be arbitrary or capricious.

A placement decision shall not be implemented at any level during any period during which an appeal can be taken or while an appeal is pending and undecided, unless authorized by court order so long as the appeal is being diligently pursued.

The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the specific placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement.

NEW SECTION. Sec. 709. SECRETARY TO DETERMINE CAPACITY OF RESIDENTIAL QUARTERS. The secretary shall determine by the application of proper criteria the maximum number of persons to reside in the residential quarters of each residential habilitation center. The secretary in authorizing service at a residential habilitation center shall not exceed the maximum population for the residential habilitation center unless the secretary makes a written finding of reasons for exceeding the rated capacity.

NEW SECTION. Sec. 710. PERSONAL PROPERTY OF RESIDENT——SECRETARY AS CUSTODIAN——LIMITATIONS——JUDICIAL PROCEEDINGS TO RECOVER. The secretary shall serve as custodian without compensation of personal property of a resident of a residential habilitation center that is located at the residential habilitation center, including moneys deposited with the secretary for the benefit of the resident. As custodian, the secretary shall have authority to disburse moneys from the resident's fund for the following purposes and subject to the following limitations:

(1) Subject to specific instructions by a donor of money to the secretary for the benefit of a resident, the secretary may disburse any of the funds belonging to a resident for such personal needs of the resident as the secretary may deem proper and necessary.

(2) The secretary may pay to the department as reimbursement for the costs of care, support, maintenance, treatment, hospitalization, medical care, and habilitation of a resident from the resident's fund when such fund exceeds a sum as established by rule of the department, to the extent of any notice and finding of financial responsibility served upon the secretary after such findings shall have become final. If the resident does not have a guardian, parent, spouse, or other person acting in a representative capacity, upon whom notice and findings of financial responsibility have been served,

then the secretary shall not make payments to the department as provided in this subsection, until a guardian has been appointed by the court, and the time for the appeal of findings of financial responsibility as provided in RCW 43.20B.430 shall not commence to run until the appointment of such guardian and the service upon the guardian of notice and findings of financial responsibility.

(3) When services to a person are changed from a residential center to another setting, the secretary shall deliver to the person, or to the parent, guardian, or agency legally responsible for the person, all or such portion of the funds of which the secretary is custodian as defined in this section, or other property belonging to the person, as the secretary may deem necessary to the person's welfare, and the secretary may deliver to the person such additional property or funds belonging to the person as the secretary may from time to time deem proper, so long as the person continues to receive service under this title. When the resident no longer receives any services under this title, the secretary shall deliver to the person, or to the parent, person, or agency legally responsible for the person, all funds or other property belonging to the person remaining in the secretary's possession as custodian.

(4) All funds held by the secretary as custodian may be deposited in a single fund, the receipts and expenditures from the fund to be accurately accounted for by the secretary. All interest accruing from, or as a result of the deposit of such moneys in a single fund shall be credited to the personal accounts of the residents. All expenditures under this section shall be subject to the duty of accounting provided for in this section.

(5) The appointment of a guardian for the estate of a resident shall terminate the secretary's authority as custodian of any funds of the resident which may be subject to the control of the guardianship, upon receipt by the secretary of a certified copy of letters of guardianship. Upon the guardian's request, the secretary shall immediately forward to the guardian any funds subject to the control of the guardianship or other property of the resident remaining in the secretary's possession, together with a full and final accounting of all receipts and expenditures made.

(6) Upon receipt of a written request from the secretary stating that a designated individual is a resident of the residential habilitation center and that such resident has no legally appointed guardian of his or her estate, any person, bank, corporation, or agency having possession of any money, bank accounts, or choses in action owned by such resident, shall, if the amount does not exceed two hundred dollars, deliver the same to the secretary as custodian and mail written notice of the delivery to such resident at the residential habilitation center. The receipt by the secretary shall constitute full and complete acquittance for such payment and the person, bank, corporation, or agency making such payment shall not be liable to the resident or his or her legal representative. All funds so received by the secretary

shall be duly deposited by the secretary as custodian in the resident's fund to the personal account of the resident. If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the lawsuit without cost to the person, bank, corporation, or agency that delivered the property to the secretary, and the state shall indemnify such person, bank, corporation, or agency against any judgment rendered as a result of such proceeding.

NEW SECTION. Sec. 711. RESIDENT TO BE PROVIDED WITH CLOTHING——COST. When clothing for a resident of a residential habilitation center is not otherwise provided, the secretary shall provide a resident with suitable clothing, the actual cost of which shall be a charge against the parents, guardian, or estate of the resident. If such parent or guardian is unable to provide or pay for the clothing, or the estate of the resident is insufficient to provide or pay for the clothing, the clothing shall be provided by the state.

NEW SECTION. Sec. 712. FINANCIAL RESPONSIBILITY. The subject of financial responsibility for the provision of services to persons in residential habilitation centers is covered by RCW 43.20B.410 through 43.20B.455.

NEW SECTION. Sec. 713. DEATH OF RESIDENT, PAYMENT OF FUNERAL EXPENSES——LIMITATION. Upon the death of a resident of a residential habilitation center, the secretary may supplement such funds as were in the resident's account at the time of the person's death to provide funeral and burial expense for the deceased resident. These expenses shall not exceed funeral and burial expenses allowed under RCW 74.08.120.

NEW SECTION. Sec. 714. LIMITED AUTHORITY TO HOLD RESIDENT WHILE CONTACTING AN INTERESTED PERSON. (1) If a resident of a residential habilitation center desires to leave the center and the secretary believes that departures may be harmful to the resident, the secretary may hold the resident at the residential habilitation center for a period not to exceed forty-eight hours in order to consult with the person's legal representative as provided in section 107 of this act as to the best interests of the resident.

(2) The secretary shall adopt rules to provide for the application of subsection (1) of this section in a manner that protects the constitutional rights of the resident.

(3) Neither the secretary nor any person taking action under this section shall be civilly or criminally liable for performing duties under this section if such duties were performed in good faith and without gross negligence.

NEW SECTION. Sec. 715. ADMISSION TO RESIDENTIAL HABILITATION CENTER FOR DIAGNOSTIC PURPOSES. Without committing the department to continued provision of service, the secretary

may admit a person eligible for services under this chapter to a residential habilitation center for a period not to exceed thirty days for observation prior to determination of needed services, where such observation is necessary to determine the extent and necessity of services to be provided.

NEW SECTION. Sec. 716. CHAPTER TO BE LIBERALLY CONSTRUED. The provisions of this chapter (sections 701 through 715 of this act) shall be liberally construed to accomplish its purposes.

Part 8

DAY TRAINING CENTERS AND GROUP TRAINING HOMES

NEW SECTION. Sec. 801. CONTRACTS AUTHORIZED. The secretary may enter into agreements with any person or with any person, corporation, or association operating a day training center or group training home or a combination day training center and group training home approved by the department, for the payment of all, or a portion, of the cost of the care, treatment, maintenance, support, and training of persons with developmental disabilities.

NEW SECTION. Sec. 802. DEFINITIONS. As used in this chapter (sections 801 through 806 of this act):

(1) "Day training center" means a facility equipped, supervised, managed, and operated at least three days per week by any person, association, or corporation on a nonprofit basis for the day-care, treatment, training, and maintenance of persons with developmental disabilities, and approved under this chapter (sections 801 through 806 of this act) and the standards under rules adopted by the secretary.

(2) "Group training home" means a facility equipped, supervised, managed, and operated on a full-time basis by any person, association, or corporation on a nonprofit basis for the full-time care, treatment, training, and maintenance of persons with developmental disabilities, and approved under this chapter (sections 801 through 806 of this act) and the standards under the rules adopted by the secretary.

NEW SECTION. Sec. 803. PAYMENTS BY SECRETARY ARE SUPPLEMENTAL TO PAYMENTS MADE BY PERSONS WITH DEVELOPMENTAL DISABILITIES——LIMITATION ON AMOUNT. All payments made by the secretary under this chapter (sections 801 through 806 of this act), shall be, insofar as possible, supplementary to payments to be made to a day training center or group training home, or a combination of both, by the persons with developmental disabilities resident in the home or center. Payments made by the secretary under this chapter (sections 801 through 806 of this act) shall not exceed actual costs for the care, treatment, support, maintenance, and training of any person with a developmental disability whether at a day training center or group training home or combination of both.

NEW SECTION. Sec. 804. CERTIFICATION OF FACILITIES. Any person, corporation, or association may apply to the secretary for approval and certification of the applicant's facility as a day training center or a group training home for persons with developmental disabilities, or a combination of both. The secretary may either grant or deny certification or revoke certification previously granted after investigation of the applicant's facilities, to ascertain whether or not such facilities are adequate for the health, safety, care, treatment, maintenance, training, and support of persons with developmental disabilities, under standards in rules adopted by the secretary.

NEW SECTION. Sec. 805. APPLICATION FOR PAYMENT. (1) Except as otherwise provided in this section, the provisions of this title govern applications for payment by the state for services in a day training center or group training home approved by the secretary under this chapter (sections 801 through 806 of this act).

(2) In determining eligibility and the amount of payment, the secretary shall make special provision for group training homes where parents are actively involved as a member of the administrative board of the group training home and who may provide for some of the services required by a resident therein. The special provisions shall include establishing eligibility requirements for a person placed in such a group training home to have a parent able and willing to attend administrative board meetings and participate insofar as possible in carrying out special activities deemed by the board to contribute to the well being of the residents.

(3) If the secretary determines that a person is eligible for services in a day training center or group training home, the secretary shall determine the extent and type of services to be provided and the amount that the department will pay, based upon the needs of the person and the ability of the parent or the guardian to pay or contribute to the payment of the monthly cost of the services.

(4) The secretary may, upon application of the person who is receiving services or the person's legal representative, after investigation of the ability or inability of such persons to pay, or without application being made, modify the amount of the monthly payments to be paid by the secretary for services at a day training center or group training home or combination of both.

NEW SECTION. Sec. 806. FACILITIES TO BE NONSECTARIAN. A day training center and a group training home under this chapter (sections 801 through 806 of this act) shall be a nonsectarian training center and a nonsectarian group training home.

Part 9
AMENDATORY SECTIONS

Sec. 901. Section 31, chapter 291, Laws of 1977 ex. sess. as last amended by section 3, chapter 524, Laws of 1987 and RCW 13.34.030 are each amended to read as follows:

DEFINITIONS——"CHILD," "JUVENILE," "DEPENDENT CHILD." For purposes of this chapter:

(1) "Child" and "juvenile" means any individual under the age of eighteen years;

(2) "Dependent child" means any child:

(a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so;

(b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Who has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Who ((~~is developmentally disabled~~)) has a developmental disability, as defined in ((~~RCW 71.20.016~~)) section 102 of this 1988 act and whose parent, guardian, or legal custodian together with the department determines that services appropriate to the child's needs can not be provided in the home. However, (a), (b), and (c) of this subsection may still be applied if other reasons for removal of the child from the home exist.

Sec. 902. Section 1, chapter 141, Laws of 1967 as last amended by section 23, chapter 75, Laws of 1987 and RCW 43.20B.410 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——LIABILITY FOR COSTS OF SERVICES——DECLARATION OF PURPOSE. The purpose of RCW 43.20B.410 through 43.20B.455 is to place financial responsibility for cost of care, support and treatment upon those residents of ((~~state~~)) residential ((~~schools~~)) habilitation centers operated under sections 701 through 716 of this act who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby.

Sec. 903. Section 3, chapter 141, Laws of 1967 as last amended by section 24, chapter 75, Laws of 1987 and RCW 43.20B.420 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——DETERMINATION OF COSTS OF SERVICES——ESTABLISHMENT OF RATES——COLLECTION. The charges for ((~~care, support and treatment~~)) services as provided in RCW 43.20B.425 shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the ((~~state~~)) residential ((~~schools~~)) habilitation centers for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.04 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 43.20B.410 through 43.20B.455, which may be enforced by civil action instituted by the attorney general within or without the state.

Sec. 904. Section 4, chapter 141, Laws of 1967 as last amended by section 25, chapter 75, Laws of 1987 and RCW 43.20B.425 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——COSTS OF SERVICES——INVESTIGATION AND DETERMINATION OF ABILITY TO PAY——EXEMPTIONS. The department shall investigate and determine the assets of the estates of each resident of a ((~~state~~)) residential ((~~school~~)) habilitation center and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a ((~~state~~)) residential ((~~school~~)) habilitation center as determined by the procedure set forth in RCW 43.20B.420: PROVIDED, That the sum as set forth in ((~~RCW 72.33.180~~)) section 710 of this 1988 act shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of ((~~his~~)) the resident's estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants.

Sec. 905. Section 5, chapter 141, Laws of 1967 as last amended by section 26, chapter 75, Laws of 1987 and RCW 43.20B.430 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——COSTS OF SERVICES——NOTICE AND FINDING OF RESPONSIBILITY——

SERVICE——APPEAL——HEARING. In all cases where a determination is made that the estate of a resident of a ((~~state school~~)) residential habilitation center is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident ((~~of a state school and the superintendent of the state school~~)). The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 43.20B.420, and the responsibility for payment to the department shall commence thirty days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An appeal from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such thirty day period upon written notice of appeal being served upon the secretary by registered or certified mail. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by an administrative law judge appointed under chapter 34.12 RCW and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal shall be a "contested case" as defined in RCW 34.04.010, and practice and procedure shall be governed by the provisions of RCW 43.20B.410 through 43.20B-.455, the rules and regulations of the department, and the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 906. Section 8, chapter 141, Laws of 1967 as last amended by section 27, chapter 75, Laws of 1987 and RCW 43.20B.440 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——COSTS OF SERVICES——CHARGES PAYABLE IN ADVANCE. The charges for care, support, maintenance and treatment of ((~~mentally or physically handicapped~~)) persons at ((~~state~~)) residential ((~~schools~~)) habilitation centers as provided by RCW 43.20B.410 through 43.20B.455 shall be payable in advance on the first day of each and every month to the department.

Sec. 907. Section 9, chapter 141, Laws of 1967 as last amended by section 28, chapter 75, Laws of 1987 and RCW 43.20B.445 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——COSTS OF SERVICES——REIMBURSEMENT FROM PROPERTY SUBSEQUENTLY ACQUIRED——PLACEMENT OUTSIDE SCHOOL——LIABILITY AFTER DEATH OF RESIDENT. The provisions of RCW 43.20B.410 through 43.20B.455 shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 43.20B.410 through 43.20B.455 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 43.20B.430: PROVIDED, That the estate of any resident of a ((~~state~~)) residential ((~~school~~)) habilitation center shall not be liable for such reimbursement subsequent to ((~~the placement of~~)) termination of services for that resident ((~~out of the state~~)) at the residential ((~~school~~)) habilitation center: PROVIDED FURTHER, That upon the death of any person while a resident in a ((~~state~~)) residential ((~~school his~~)) habilitation center, the person's estate shall become liable to the same extent as the resident's liability on the date of death.

Sec. 908. Section 12, chapter 141, Laws of 1967 as last amended by section 30, chapter 75, Laws of 1987 and RCW 43.20B.455 are each amended to read as follows:

RESIDENTIAL HABILITATION CENTERS——COSTS OF SERVICES——DISCRETIONARY ALLOWANCE IN RESIDENT'S FUND. Notwithstanding any other provision of RCW 43.20B.410 through 43.20B.455, the secretary may, if in ((~~his~~)) the secretary's discretion any resident of a ((~~state~~)) residential ((~~school~~)) habilitation center can be ((~~discharged~~)) terminated from receiving services at the habilitation center more rapidly ((~~therefrom~~)) and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 43.20B.415.

Sec. 909. Section 1, chapter 330, Laws of 1977 ex. sess. as last amended by section 1, chapter 6, Laws of 1986 and RCW 43.51.055 are each amended to read as follows:

SENIOR CITIZEN'S PASS——DISABILITY PASS——VETERAN'S DISABILITY PASS——ELIGIBILITY. (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~~)) section 102(2) of this 1988 act 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 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.

Sec. 910. Section 16, chapter 110, Laws of 1967 ex. sess. as last amended by section 183, chapter 3, Laws of 1983 and RCW 71.20.110 are each amended to read as follows:

TAX LEVY DIRECTED——ALLOCATION OF FUNDS FOR FEDERAL MATCHING FUNDS PURPOSES. In order to provide additional funds for the coordination and provision of community ((~~mental retardation and other developmental disability services and to provide community mental retardation, other developmental disability,~~)) services for persons with developmental disabilities or mental health services, the ((~~board of county commissioners~~)) county governing authority of each county in the state shall budget and levy annually a tax in a sum equal to the amount which would be raised by a levy of two and one-half cents per thousand dollars of assessed value against the taxable property in the county to be used for such purposes: PROVIDED, That all or part of the funds collected from the tax levied for the purposes of this section may be transferred to the state of Washington, department of social and health services, for the purpose of obtaining federal matching funds to provide and coordinate community ((~~mental retardation, other developmental disability,~~)) services for persons with developmental disabilities and mental health services. In the event a county elects to transfer such tax funds to the state for this purpose, the state shall grant these moneys and the additional funds received as matching funds to service-providing community agencies or community boards in the county which has made such transfer, pursuant to the plan approved by the county, as provided by chapters ((~~71.20,~~)) 71.24((,)) and 71.28 RCW and by sections 301 through 311 of this 1988 act, all as now or hereafter amended.

The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW.

Sec. 911. Section 1, chapter 84, Laws of 1967 as amended by section 44, chapter 80, Laws of 1977 ex. sess. and RCW 71.28.010 are each amended to read as follows:

CONTRACTS BY BOUNDARY COUNTIES OR CITIES THEREIN. Any county, or city within a county which is situated on the state boundaries is authorized to contract for mental health ((~~and/or developmental disabilities~~)) services with a county situated in either the states of

Oregon or Idaho, located on the boundaries of such states with the state of Washington.

Sec. 912. Section 2, chapter 172, Laws of 1967 as last amended by section 12, chapter 170, Laws of 1987 and RCW 74.15.020 are each amended to read as follows:

DEFINITIONS. For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

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

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

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or ((~~developmentally disabled~~)) persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or ((~~developmentally disabled~~)) persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or ((~~developmentally disabled~~)) persons with developmental disabilities for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or ((~~developmentally disabled~~)) persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or ((~~developmentally disabled~~)) person with a developmental disability is placed;

(f) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036.

(4) "Agency" shall not include the following:

(a) Persons related by blood or marriage to the child, expectant mother, or ((~~developmentally disabled~~)) persons with developmental disabilities in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, and/or first cousin;

(b) Persons who are legal guardians of the child, expectant mother, or ((~~developmentally disabled~~)) persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person does not engage in such activity on a regular basis, or where parents on a mutually cooperative basis exchange care of one another's children, or persons who have the care of an exchange student in their own home;

(d) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(e) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(f) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(j) Facilities approved and certified under ((~~RCW 72.33.810~~)) sections 801 through 806 of this 1988 act;

(k) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(l) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a preplacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(m) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(5) "Requirement" means any rule, regulation or standard of care to be maintained by an agency.

Sec. 913. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 31, chapter 435, Laws of 1987 and RCW 74.20A.030 are each amended to read as follows:

DEPARTMENT SUBROGATED TO RIGHTS FOR SUPPORT——NO COLLECTION FROM PARENTS ON PUBLIC ASSISTANCE OR THOSE WITH CHILDREN WITH DEVELOPMENTAL DISABILITIES——ENFORCEMENT ACTIONS. The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 74.20A.055. Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

No collection action shall be taken against parents of children eligible for admission to, or children who have been ((~~released~~)) discharged from((;)) a ((~~state school for the developmentally disabled~~)) residential habilitation center as defined by ((~~chapter 72.33 RCW~~)) section 102(7) of this 1988 act.

The department may initiate, continue, maintain, or execute action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state, for a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a nonassistance request for support enforcement services has been made under RCW 74.20.040.

Sec. 914. Section 77.32.230, chapter 36, Laws of 1955 as last amended by section 85, chapter 506, Laws of 1987 and RCW 77.32.230 are each amended to read as follows:

FREE LICENSES——CERTAIN VETERANS, BLIND OR OLD PERSONS, PERSONS WITH DEVELOPMENTAL DISABILITIES,

PHYSICALLY HANDICAPPED PERSONS CONFINED TO WHEELCHAIR——USE OF PERMANENT DISABILITY CARD——EXEMPTION FOR YOUTHS——PURCHASE OF TAGS, PERMITS, STAMPS, AND PUNCHCARDS REQUIRED. (1) A person sixty-five years of age or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability and who has been a resident for five years may receive upon application a state hunting and fishing license free of charge.

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

(3) A blind person, or a person with a developmental disability as defined in ((~~RCW 71.20.016~~)) section 102 of this 1988 act with documentation of the disability from the department of social and health services, or a physically handicapped person confined to a wheelchair may receive upon application a fishing license free of charge.

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

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

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

Sec. 915. Section 3, chapter 81, Laws of 1970 ex. sess. as amended by section 1, chapter 134, Laws of 1972 ex. sess. and RCW 82.04.385 are each amended to read as follows:

EXEMPTIONS——OPERATION OF SHELTERED WORKSHOPS. This chapter shall not apply to income received from the department of social and health services for the cost of care, maintenance, support, and training of ((~~mentally retarded~~)) persons with developmental disabilities at nonprofit group training homes as defined by ((~~RCW 72.33.800(2)~~)) sections 801 through 806 of this 1988 act or to the gross sales or gross income received by nonprofit organizations from the operation of "sheltered workshops". For the purposes of this section, "sheltered workshops" means rehabilitation facilities, or that part of rehabilitation facilities, where any manufacture or handiwork is carried on and which is operated for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for handicapped individuals.

Part 10
CONSTRUCTION

NEW SECTION. Sec. 1001. CONTINUATION OF EXISTING LAW. Insofar as provisions of this title are substantially the same as provisions of the statutes repealed by sections 1005, 1006, and 1007 of this act, the provisions of this title shall be construed as restatements and continuations of the prior law, and not as new enactments.

NEW SECTION. Sec. 1002. HEADINGS NOT PART OF LAW. Title headings, chapter headings, and section headings used in this title do not constitute any part of the law.

NEW SECTION. Sec. 1003. INVALIDITY OF PART OF TITLE NOT TO AFFECT REMAINDER. 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. 1004. SAVING. The repeals made by sections 1005 through 1007 of this act shall not be construed as affecting any existing right, status, or eligibility for services acquired under the provisions of the statutes repealed, nor as affecting the validity of any rule or order promulgated under the prior statutes, nor as affecting the status of any person appointed or employed under the prior statutes.

NEW SECTION. Sec. 1005. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 110, Laws of 1967 ex. sess. and RCW 71.20-.010;

(2) Section 6, chapter 224, Laws of 1982, section 19, chapter 41, Laws of 1983 1st ex. sess. and RCW 71.20.016;

(3) Section 2, chapter 110, Laws of 1967 ex. sess. and RCW 71.20-.020;

(4) Section 3, chapter 110, Laws of 1967 ex. sess., section 181, chapter 3, Laws of 1983 and RCW 71.20.030;

(5) Section 4, chapter 110, Laws of 1967 ex. sess., section 3, chapter 71, Laws of 1974 ex. sess., section 182, chapter 3, Laws of 1983 and RCW 71.20.040;

(6) Section 5, chapter 110, Laws of 1967 ex. sess., section 4, chapter 71, Laws of 1974 ex. sess. and RCW 71.20.050;

(7) Section 6, chapter 110, Laws of 1967 ex. sess., section 5, chapter 71, Laws of 1974 ex. sess. and RCW 71.20.060;

(8) Section 7, chapter 110, Laws of 1967 ex. sess., section 6, chapter 71, Laws of 1974 ex. sess. and RCW 71.20.070;

(9) Section 1, chapter 71, Laws of 1974 ex. sess. and RCW 71.20.075;

(10) Section 8, chapter 110, Laws of 1967 ex. sess. and RCW 71.20-.080; and

(11) Section 9, chapter 110, Laws of 1967 ex. sess., section 7, chapter 71, Laws of 1974 ex. sess. and RCW 71.20.090.

NEW SECTION. Sec. 1006. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 145, Laws of 1983 and RCW 71.30.010;

(2) Section 2, chapter 145, Laws of 1983 and RCW 71.30.020;

(3) Section 3, chapter 145, Laws of 1983 and RCW 71.30.030;

(4) Section 1, chapter 18, Laws of 1967 ex. sess., section 53, chapter 80, Laws of 1977 ex. sess. and RCW 72.30.010;

(5) Section 2, chapter 18, Laws of 1967 ex. sess., section 54, chapter 80, Laws of 1977 ex. sess. and RCW 72.30.020;

(6) Section 3, chapter 18, Laws of 1967 ex. sess., section 55, chapter 80, Laws of 1977 ex. sess., section 29, chapter 41, Laws of 1983 1st ex. sess. and RCW 72.30.030;

(7) Section 4, chapter 18, Laws of 1967 ex. sess., section 235, chapter 141, Laws of 1979, section 11, chapter 217, Laws of 1979 ex. sess. and RCW 72.30.040; and

(8) Section 5, chapter 18, Laws of 1967 ex. sess., section 236, chapter 141, Laws of 1979 and RCW 72.30.050.

NEW SECTION. Sec. 1007. The following acts or parts of acts are each repealed:

(1) Section 72.33.010, chapter 28, Laws of 1959 and RCW 72.33.010;

(2) Section 72.33.020, chapter 28, Laws of 1959, section 101, chapter 154, Laws of 1973 1st ex. sess., section 1, chapter 246, Laws of 1975 1st ex. sess., section 56, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.020;

(3) Section 72.33.030, chapter 28, Laws of 1959, section 1, chapter 31, Laws of 1959, section 1, chapter 89, Laws of 1982 and RCW 72.33.030;

(4) Section 72.33.040, chapter 28, Laws of 1959, section 3, chapter 56, Laws of 1969, section 62, chapter 80, Laws of 1977 ex. sess., section 12, chapter 217, Laws of 1979 ex. sess., section 30, chapter 41, Laws of 1983 1st ex. sess. and RCW 72.33.040;

(5) Section 72.33.050, chapter 28, Laws of 1959, section 13, chapter 217, Laws of 1979 ex. sess. and RCW 72.33.050;

(6) Section 72.33.070, chapter 28, Laws of 1959, section 63, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.070;

(7) Section 72.33.080, chapter 28, Laws of 1959, section 64, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.080;

(8) Section 72.33.090, chapter 28, Laws of 1959 and RCW 72.33.090;

(9) Section 72.33.100, chapter 28, Laws of 1959 and RCW 72.33.100;

(10) Section 72.33.110, chapter 28, Laws of 1959 and RCW 72.33-.110;

(11) Section 2, chapter 246, Laws of 1975 1st ex. sess., section 57, chapter 80, Laws of 1977 ex. sess., section 1, chapter 60, Laws of 1983,

section 1, chapter 146, Laws of 1986, section 68, chapter 505, Laws of 1987 and RCW 72.33.125;

(12) Section 72.33.130, chapter 28, Laws of 1959, section 3, chapter 246, Laws of 1975 1st ex. sess., section 58, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.130;

(13) Section 72.33.140, chapter 28, Laws of 1959, section 4, chapter 246, Laws of 1975 1st ex. sess. and RCW 72.33.140;

(14) Section 72.33.150, chapter 28, Laws of 1959, section 5, chapter 246, Laws of 1975 1st ex. sess. and RCW 72.33.150;

(15) Section 2, chapter 166, Laws of 1981, section 1, chapter 50, Laws of 1983 and RCW 72.33.161;

(16) Section 11, chapter 246, Laws of 1975 1st ex. sess., section 59, chapter 80, Laws of 1977 ex. sess., section 2, chapter 60, Laws of 1983 and RCW 72.33.165;

(17) Section 72.33.170, chapter 28, Laws of 1959, section 7, chapter 246, Laws of 1975 1st ex. sess., section 60, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.170;

(18) Section 72.33.180, chapter 28, Laws of 1959, section 1, chapter 61, Laws of 1959, section 10, chapter 141, Laws of 1967 :ection 2, chapter 75, Laws of 1970 ex. sess., section 1, chapter 118, Laws of 1971 ex. sess., section 5, chapter 245, Laws of 1985, section 22, chapter 75, Laws of 1987 and RCW 72.33.180;

(19) Section 72.33.190, chapter 28, Laws of 1959 and RCW 72.33-.190;

(20) Section 72.33.200, chapter 28, Laws of 1959, section 8, chapter 246, Laws of 1975 1st ex. sess. and RCW 72.33.200;

(21) Section 72.33.210, chapter 28, Laws of 1959 and RCW 72.33-.210;

(22) Section 72.33.220, chapter 28, Laws of 1959, section 9, chapter 246, Laws of 1975 1st ex. sess. and RCW 72.33.220;

(23) Section 72.33.230, chapter 28, Laws of 1959 and RCW 72.33-.230;

(24) Section 72.33.240, chapter 28, Laws of 1959, section 135, chapter 81, Laws of 1971, section 10, chapter 246, Laws of 1975 1st ex. sess., section 61, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.240;

(25) Section 20, chapter 198, Laws of 1949, section 1, chapter 225, Laws of 1957, section 72.33.260, chapter 28, Laws of 1959 and RCW 72-.33.260;

(26) Section 1, chapter 126, Laws of 1959 and RCW 72.33.500;

(27) Section 2, chapter 126, Laws of 1959 and RCW 72.33.510;

(28) Section 3, chapter 126, Laws of 1959 and RCW 72.33.520;

(29) Section 4, chapter 126, Laws of 1959 and RCW 72.33.530;

(30) Section 5, chapter 126, Laws of 1959 and RCW 72.33.540;

(31) Section 6, chapter 126, Laws of 1959 and RCW 72.33.550;

(32) Section 7, chapter 126, Laws of 1959 and RCW 72.33.560;

(33) Section 8, chapter 126, Laws of 1959 and RCW 72.33.570;

(34) Section 9, chapter 126, Laws of 1959 and RCW 72.33.580;

(35) Section 10, chapter 126, Laws of 1959 and RCW 72.33.590;

(36) Section 1, chapter 251, Laws of 1961, section 1, chapter 34, Laws of 1965, section 9, chapter 71, Laws of 1974 ex. sess., section 65, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.800;

(37) Section 2, chapter 251, Laws of 1961, section 2, chapter 34, Laws of 1965, section 10, chapter 71, Laws of 1974 ex. sess., section 66, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.805;

(38) Section 3, chapter 251, Laws of 1961, section 11, chapter 71, Laws of 1974 ex. sess., section 67, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.810;

(39) Section 4, chapter 251, Laws of 1961, section 3, chapter 34, Laws of 1965, section 12, chapter 71, Laws of 1974 ex. sess., section 1, chapter 310, Laws of 1983 and RCW 72.33.815;

(40) Section 5, chapter 251, Laws of 1961 and RCW 72.33.820;

(41) Section 1, chapter 166, Laws of 1969 ex. sess., section 244, chapter 141, Laws of 1979 and RCW 72.33.830;

(42) Section 2, chapter 166, Laws of 1969 ex. sess., section 245, chapter 141, Laws of 1979 and RCW 72.33.840;

(43) Section 3, chapter 166, Laws of 1969 ex. sess., section 246, chapter 141, Laws of 1979 and RCW 72.33.850;

(44) Section 4, chapter 118, Laws of 1971 ex. sess. and RCW 72.33-.860; and

(45) Section 72.33.900, chapter 28, Laws of 1959 and RCW 72.33-.900.

NEW SECTION. Sec. 1008. APPLICATION TO PENDING MATTERS. Except as provided in section 1004 of this act, this title shall govern:

(1) The continued provision of services to persons with developmental disabilities who are receiving services on the effective date of this act.

(2) The disposition of hearings, lawsuits, or appeals that are pending on the effective date of this act.

(3) All other questions or matters covered by this title, from the effective date of this act.

NEW SECTION. Sec. 1009. Sections 101 through 806 of this act shall constitute a new title in the Revised Code of Washington.

Passed the House March 5, 1988.
Passed the Senate February 29, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 177

[Substitute House Bill No. 1340]

WASTE REDUCTION

AN ACT Relating to waste reduction; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that land disposal and incineration of solid and hazardous waste can be both harmful to the environment and costly to those who must dispose of the waste. In order to address this problem in the most cost-effective and environmentally sound manner, and to implement the highest waste management priority as articulated in RCW 70.95.010 and 70.105.150, public and private efforts should focus on reducing the generation of waste. Waste reduction can be achieved by encouraging voluntary efforts to redesign industrial, commercial, production, and other processes to result in the reduction or elimination of waste byproducts and to maximize the in-process reuse or reclamation of valuable spent material.

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

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

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

(3) "Office" means the office of waste reduction.

(4) "Process" means all industrial, commercial, production, and other processes that result in the generation of waste.

(5) "Waste" means any solid waste as defined under RCW 70.95.030, any hazardous waste as defined under RCW 70.105.010(15), any hazardous substance as defined under RCW 70.105.010(14), any air contaminant as defined under RCW 70.94.030, and any organic or inorganic matter that shall cause or tend to cause water pollution as defined under RCW 90.48.020.

(6) "Waste generator" means any individual, business, government agency, or any other organization that generates waste.

(7) "Waste reduction" means all in-plant practices that reduce, avoid, or eliminate the amount or toxicity of waste generated.

NEW SECTION. Sec. 3. (1) There is established in the department an office of waste reduction. The office shall use its authorities to encourage the voluntary reduction of waste by waste generators. The office shall prepare and submit a quarterly progress report to the director and the director shall submit an annual progress report to the appropriate environmental standing committees of the legislature beginning December 31, 1988.

(2) The office shall be the coordinating center for all state agency programs that provide technical assistance to waste generators and shall serve as the state's lead agency and promoter for such programs. In addition to this coordinating function, the office shall encourage waste reduction by:

(a) Providing for the rendering of advice and consultation to waste generators on waste reduction techniques;

(b) Sponsoring or co-sponsoring with public or private organizations technical workshops and seminars on waste reduction;

(c) Administering a waste reduction data base and hotline providing comprehensive referral services to waste generators;

(d) Administering a waste reduction research and development program;

(e) Coordinating a waste reduction public education program that includes the utilization of existing publications from public and private sources, as well as publishing necessary new materials on waste reduction;

(f) Recommending to institutions of higher education in the state courses and curricula in areas related to waste reduction; and

(g) Requiring energy and incineration facilities to retain records of monitoring and operating data for a minimum of ten years after permanent closure of the facility.

NEW SECTION. Sec. 4. (1) The office shall establish a waste reduction consultation program to be coordinated with other state waste reduction consultation programs.

(2) The director may grant a request by any waste generator for advice and consultation on waste reduction techniques. Pursuant to a request, the director may visit any business, governmental entity, or other process site in the state for the purposes of observing the waste-generating process, obtaining information relevant to waste reduction, rendering advice, and making recommendations. No such visit may be regarded as an inspection or investigation, and no notices or citations may be issued, or civil penalty be assessed, upon such a visit. No representative of the director designated to render advisory or consultative services may have any enforcement authority.

(3) Consultation and advice given under this section shall be limited to the matters specified in the request and shall include specific techniques of waste reduction tailored to the relevant process. In granting any request for advisory or consultative services, the director may provide for an alternative means of affording consultation and advice other than on-site consultation.

(4) Any proprietary information obtained by the director while carrying out the duties required under this section shall remain confidential and shall not become part of the data base established under section 6 of this act.

NEW SECTION. Sec. 5. The office, in coordination with all other state waste reduction technical assistance programs, shall sponsor technical

workshops and seminars on waste reduction techniques that have been successfully used to eliminate or reduce substantially the amount of waste or toxicity of hazardous waste generated, or that use in-process reclamation or reuse of spent material.

NEW SECTION. Sec. 6. (1) The office shall establish a state-wide waste reduction hotline with the capacity to refer waste generators and the public to sources of information on specific waste reduction techniques and procedures. The hotline shall coordinate with all other state waste hotlines.

(2) The director shall work with the state library to establish a data base system that shall include proven waste reduction techniques and case studies of effective waste reduction. The data base system shall be: (a) Coordinated with all other state agency data bases on waste reduction; (b) administered in conjunction with the state-wide waste reduction hotline; and (c) readily accessible to the public.

NEW SECTION. Sec. 7. (1) The office may administer a waste reduction research and development program. The director may contract with any public or private organization for the purpose of developing methods and technologies that achieve waste reduction. All research performed and all methods or technologies developed as a result of a contract entered into under this section shall become the property of the state and shall be incorporated into the data base system established under section 6 of this act.

(2) Any contract entered into under this section shall be awarded only after requests for proposals have been circulated to persons, firms, or organizations who have requested that their names be placed on a proposal list. The director shall establish a proposal list and shall review and evaluate all proposals received.

NEW SECTION. Sec. 8. (1) The director may solicit and accept gifts, grants, conveyances, bequests, and devises, in trust or otherwise, to be directed to the office of waste reduction.

(2) The director may enter into contracts with any public or private organization to carry out the purposes of this chapter.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House March 8, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 178

[Substitute House Bill No. 1369]

ESCROW

AN ACT Relating to escrow; amending RCW 18.44.070 and 18.44.360; and adding a new section to chapter 18.44 RCW.

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

Sec. 1. Section 7, chapter 153, Laws of 1965 as amended by section 6, chapter 156, Laws of 1977 ex. sess. and RCW 18.44.070 are each amended to read as follows:

Every certificated escrow agent shall keep adequate records of all transactions handled by or through ((~~him~~)) the agent including itemization of all receipts and disbursements of each transaction, which records shall be open to inspection by the director or ((~~his~~)) the director's authorized representatives.

Every certificated agent shall keep a separate escrow fund account in a recognized Washington state depositary authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

An escrow agent, unless exempted by RCW 18.44.020(2), shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. The deposits shall be in one of the following forms:

(1) Cash;

(2) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;

(3) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;

(4) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or

(5) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the Federal Expedited Funds Availability Act, 12 U.S.C. 400/et seq.

The word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86

RCW and shall constitute grounds for suspension or revocation of the registration or license of any ((~~person under this chapter and such additional penalties as may be prescribed in Title 9A RCW~~)) certified escrow agent.

Sec. 2. Section 30, chapter 156, Laws of 1977 ex. sess. and RCW 18-.44.360 are each amended to read as follows:

The director shall, within thirty days after the written request of the escrow commission, hold a public hearing to determine whether the fidelity bond and/or the errors and omissions policy specified in RCW 18.44.050 as now or hereafter amended is reasonably available to a substantial number of certificated escrow agents. If the director determines and the insurance commissioner concurs that such bond and/or policy is not reasonably available, the director shall waive the requirements for such bond and/or policy for a fixed period of time ((~~not to exceed ninety days after the next regular session of the legislature~~)).

NEW SECTION. Sec. 3. A new section is added to chapter 18.44 RCW to read as follows:

(1) "Real property lender" as used in this section means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, or partnership that makes loans secured by real property located in this state.

(2) No real property lender, escrow agent, or officer or employee of any escrow agent or real property lender may give or agree to pay or give any money, service, or object of value to any real estate agent or broker, to any real property lender, or to any officer or employee of any agent, broker, or lender in return for the referral of any real estate escrow services. Nothing in this subsection prohibits the payment of fees or other compensation permitted under the federal Real Estate Settlement Procedures Act as amended (12 U.S.C. sections 2601 through 2617).

(3) A violation of this section constitutes a violation of RCW 19.86-.020, and any person harmed in his or her business or property is entitled to the remedies provided under RCW 19.86.090.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 179

[Engrossed Substitute House Bill No. 1817]

LOCAL AND REGIONAL TRANSPORTATION IMPROVEMENTS

AN ACT Relating to funding of local improvements; amending RCW 82.02.020, 36.73-.120, and 35.72.040; adding new sections to chapter 35.43 RCW; adding new sections to chapter 36.88 RCW; adding a new chapter to Title 39 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. PURPOSE. The legislature finds that there is an increasing need for local and regional transportation improvements as the result of both existing demands and the foreseeable future demands from economic growth and development within the state, including residential, commercial, and industrial development.

The legislature intends with this chapter to enable local governments to develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. The programs should provide a fair and predictable method for allocating the cost of necessary transportation improvements between the public and private sectors. The programs should include consideration of public transportation as a method of reducing off-site transportation impacts from development. The legislature finds that the private funds authorized to be collected pursuant to this chapter are for the purpose of mitigating the impacts of development and are not taxes. The state shall encourage and give priority to the state funding of local and regional transportation improvements that are funded in part by local, public, and private funds.

The authority provided by this act for local governments to create and implement local transportation programs is intended to be supplemental, except as expressly provided in sections 3(9), 6, and 7 of this act, to the existing authorities and responsibilities of local governments to regulate development and provide public facilities.

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

(1) "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.

(2) "Development" means the subdivision or short platting of land or the construction or reconstruction of residential, commercial, industrial, public, or any other building, building space, or land.

(3) "Direct result of the proposed development" means those quantifiable transportation impacts that are caused by vehicles or pedestrians whose trip origin or destination is the proposed development.

(4) "Local government" means all counties, cities, and towns in the state of Washington and transportation benefit districts created pursuant to chapter 36.73 RCW.

(5) "Off-site transportation improvements" means those transportation capital improvements designated in the local plan adopted under this chapter that are authorized to be undertaken by local government and that serve the transportation needs of more than one development.

(6) "Transportation impact fee" means a monetary charge imposed on new development for the purpose of mitigating off-site transportation impacts that are a direct result of the proposed development.

(7) "Fair market value" means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities.

NEW SECTION. Sec. 3. LOCAL PROGRAMS AUTHORIZED. Local governments may develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. Local governments shall adopt the programs by ordinance after notice and public hearing. Each program shall contain the elements described in this section.

(1) The program shall identify the geographic boundaries of the entire area or areas generally benefited by the proposed off-site transportation improvements and within which transportation impact fees will be imposed under this chapter.

(2) The program shall be based on an adopted comprehensive, long-term transportation plan identifying the proposed off-site transportation improvements reasonable and necessary to meet the future growth needs of the designated plan area and intended to be covered by this joint funding program, including acquisition of right of way, construction and reconstruction of all major and minor arterials and intersection improvements, and identifying design standards, levels of service, capacities, and costs applicable to the program. The program shall also indicate how the transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions. The program shall also indicate how public transportation and ride-sharing improvements and services will be used to reduce off-site transportation impacts from development.

(3) The program shall include at least a six-year capital funding program, updated annually, identifying the specific public sources and amounts of revenue necessary to pay for that portion of the cost of all off-site transportation improvements contained in the transportation plan that will not foreseeably be funded by transportation impact fees. The program shall include a proposed schedule for construction and expenditures of funds. The

funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for such off-site transportation improvements.

(4) The program shall authorize transportation impact fees to be imposed on new development within the plan area for the purpose of providing a portion of the funding for reasonable and necessary off-site transportation improvements to solve the cumulative impacts of planned growth and development in the plan area. Off-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements being funded under the program. The fees shall not exceed the amount that the local government can demonstrate is reasonably necessary as a direct result of the proposed development.

(5) The program shall provide that the funds collected as a result of a particular new development shall be used in substantial part to pay for improvements mitigating the impacts of the development or be refunded to the property owners of record. Fees paid toward more than one transportation improvement may be pooled and expended on any one of the improvements mitigating the impact of the development. The funds shall be expended in all cases within six years of collection by the local government or the unexpended funds shall be refunded.

(6) The program shall also describe the formula, timing, security, credits, and other terms and conditions affecting the amount and method of payment of the transportation impact fees as further provided for in section 4 of this act. In calculating the amount of the fee, local government shall consider and give credit for the developer's participation in public transportation and ride-sharing improvements and services.

(7) The administrative element of the program shall include: an opportunity for administrative appeal by the developer and hearing before an independent examiner of the amount of the transportation impact fee imposed; establishment of a designated account for the public and private funds appropriated or collected for the transportation improvements identified in the plan; methods to enforce collection of the public and private funds identified in the program; designation of the administrative departments or other entities responsible for administering the program, including determination of fee amounts, transportation planning, and construction; and provisions for future amendment of the program including the addition of other off-site transportation improvements. The program shall not be amended in a manner to relieve local government of any contractual obligations made to prior developers.

(8) The program shall provide that private transportation impact fees shall not be collected for any off-site transportation improvement that is incapable of being reasonably carried out because of lack of public funds or other foreseeable impediment.

(9) The program shall provide that no transportation impact fee may be imposed on a development by local government pursuant to this program when mitigation of the same off-site transportation impacts for the development is being required by any government agency pursuant to any other local, state, or federal law.

NEW SECTION. Sec. 4. TRANSPORTATION IMPACT FEE. The program shall describe the formula or method for calculating the amount of the transportation impact fees to be imposed on new development within the plan area. The program may require developers to pay a transportation impact fee for off-site transportation improvements not yet constructed and for those jointly-funded improvements constructed since the commencement of the program.

The program shall define the event in the development approval process that triggers a determination of the amount of the transportation impact fees and the event that triggers the obligation to make actual payment of the fees. However, the payment obligation shall not commence before the date the developer has obtained a building permit for the new development or, in the case of residential subdivisions or short plats, at the time of final plat approval, at the developer's option. If the developer of a residential subdivision or short plat elects to pay the fee at the date a building permit has been obtained, the option to pay the transportation impact fee by installments as authorized by this section is deemed to have been waived by the developer. The developer shall be given the option to pay the transportation impact fee in a lump sum, without interest, or by installment with reasonable interest over a period of five years or more as specified by the local government.

The local government shall require security for the obligation to pay the transportation impact fee, in the form of a recorded agreement, deed of trust, letter of credit, or other instrument determined satisfactory by the local government. The developer shall also be given credit against its obligations for the transportation impact fee, for the fair market value of off-site land and/or the cost of constructing improved transportation facilities dedicated to the local government. If the value of the dedication exceeds the amount of transportation impact fee obligation, the developer is entitled to reimbursement from transportation impact fees attributable to the dedicated facilities and paid by subsequent developers within the plan area.

Payment of the transportation impact fee entitles the developer and its successors and assigns to credit against any other fee, local improvement district assessment, or other monetary imposition made specifically for the designated off-site transportation improvements intended to be covered by the transportation impact fee imposed pursuant to this program. The program shall also define the criteria for establishing periodic fee increases attributable to construction and related cost increases for the improvements designated in the program.

NEW SECTION. Sec. 5. INTERLOCAL COOPERATION—— CONSISTENCY AND ASSISTANCE. Local governments are authorized and encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs authorized by this chapter for the purpose of accomplishing regional transportation planning and development. Local governments shall also seek, to the greatest degree practicable, consistency among jurisdictions in the terms and conditions of their programs for the purpose of increasing fairness and predictability on a regional basis. Local governments shall seek comment, in the development of their programs, from other affected local governments, state agencies, and governments authorized to perform public transportation functions. Local governments are also encouraged to enter into interlocal agreements to provide technical assistance to each other, in return for reasonable reimbursement, for the purpose of developing and implementing such transportation programs.

Sec. 6. Section 82.02.020, chapter 15, Laws of 1961 as last amended by section 17, chapter 327, Laws of 1987 and RCW 82.02.020 are each amended to read as follows:

Except only as expressly provided in RCW 67.28.180 and 67.28.190 and the provisions of chapter 82.14 RCW, the state preempts the field of imposing taxes upon retail sales of tangible personal property, the use of tangible personal property, parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. No county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements pursuant to RCW 58.17.110 within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat((~~: PROVIDED, That~~)). A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.— RCW (sections 1 through 5 of this act). Any such voluntary agreement ((~~shall be~~)) is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefitted thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges: PROVIDED, That no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged: PROVIDED FURTHER, That these provisions shall not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.— RCW (sections 1 through 5 of this act).

This section does not apply to special purpose districts formed and acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the authority conferred by these titles affected.

Sec. 7. Section 12, chapter 327, Laws of 1987 and RCW 36.73.120 are each amended to read as follows:

(1) A transportation benefit district may impose a fee or charge((~~, either direct or indirect,~~)) on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land only if done in accordance with chapter 39.— RCW (sections 1 through 5 of this act).

(2) Any fee or charge imposed under this section shall be used exclusively for transportation improvements constructed by a transportation benefit district. The fees or charges so imposed must be reasonably necessary as a result of the impact of ((~~collective~~)) development, construction, or classification or reclassification of land on identified transportation needs.

(3) When fees or charges are imposed by a district within which there is more than one city or both incorporated and unincorporated areas, the legislative authority for each city in the district and the county legislative authority for the unincorporated area must approve the imposition of such fees or charges before they take effect.

NEW SECTION. Sec. 8. WAIVERS OF PROTEST——RECORDING——LIMITS ON ENFORCEABILITY. If an owner of property enters into an agreement with a city or town waiving the property owner's right under RCW 35.43.180 to protest formation of a local improvement district, the agreement must specify the improvements to be financed by the district and shall set forth the effective term of the agreement, which shall not exceed ten years. The agreement must be recorded with the auditor of the county in which the property is located. It is against public policy and void for an owner, by agreement, as a condition imposed in connection with proposed property development, or otherwise, to waive rights to object to the property owner's individual assessment (including the determination of special benefits allocable to the property), or to appeal to the superior court the decision of the city or town council affirming the final assessment roll.

NEW SECTION. Sec. 9. PREFORMATION EXPENDITURES. The city or town engineer or other designated official may contract with owners of real property to provide for payment by the owners of the cost of the preparation of engineering plans, surveys, studies, appraisals, legal services, and other expenses associated with improvements to be financed in whole or in part by a local improvement district (not including the cost of actual construction of such improvements), that the owners elect to undertake. The contract may provide for reimbursement to the owner of such costs from the proceeds of bonds issued by the district after formation of a district under this chapter, from assessments paid to the district as appropriate, or by a credit in the amount of such costs against future assessments assessed against such property under the district. Such reimbursement shall be made to the owner of the property at the time of reimbursement. The contract shall also provide that such costs shall not be reimbursed to the owner if a district to construct the specified improvements (as the project

may be amended) is not formed within six years of the date of the contract. The contract shall provide that any preformation work shall be conducted only under the direction of the city or town engineer or other appropriate city or town authority.

NEW SECTION. Sec. 10. CREDITS FOR OTHER ASSESSMENTS. A city or town ordering a local improvement upon which special assessments on property specifically benefitted by the improvement are levied and collected, may provide as part of the ordinance creating the local improvement district that moneys paid or the cost of facilities constructed by a property owner in the district in satisfaction of obligations under chapter 39.___ RCW (sections 1 through 5 of this act), shall be credited against assessments due from the owner of such property at the time the credit is made, if those moneys paid or facilities constructed directly defray the cost of the specified improvements under the district and if credit for such amounts is reflected in the final assessment roll confirmed for the district.

NEW SECTION. Sec. 11. ASSESSMENT REIMBURSEMENT ACCOUNTS. A city or town ordering a local improvement upon which special assessments on property specifically benefitted by the improvement are levied and collected, may provide as part of the ordinance creating the local improvement district that the payment of an assessment levied for the district on underdeveloped properties may be made by owners of other properties within the district, if they so elect, subject to terms of reimbursement set forth in the ordinance. The terms for reimbursement shall require the owners of underdeveloped properties on whose behalf payments of assessments have been made to reimburse all such assessment payments to the party who made them when those properties are developed or redeveloped, together with interest at a rate specified in the ordinance. The ordinance may provide that reimbursement shall be made on a one-time, lump sum basis, or may provide that reimbursement shall be made over a period not to exceed five years. The ordinance may provide that reimbursement shall be made no later than the time of dissolution of the district, or may provide that no reimbursement is due if the underdeveloped properties are not developed or redeveloped before the dissolution of the district. Reimbursement amounts due from underdeveloped properties under this section are liens upon the underdeveloped properties in the same manner and with like effect as assessments made under this chapter. For the purposes of this section, "underdeveloped properties" may include those properties that, in the discretion of the legislative body of the city or town, (1) are undeveloped or are not developed to their highest and best use, and (2) are likely to be developed or redeveloped before the dissolution of the district.

NEW SECTION. Sec. 12. WAIVERS OF PROTEST——RECORDING——LIMITS ON ENFORCEABILITY. If an owner of property enters into an agreement with a county waiving the property owner's right under RCW 36.88.030, 36.88.040, 36.88.050, 36.88.060, and 36.88-.065 to protest formation of a road improvement district, the agreement must specify the improvements to be financed by the district and shall set forth the effective term of the agreement, which shall not exceed ten years. The agreement must be recorded with the auditor of the county in which the property is located. It is against public policy and void for an owner, by agreement, as a condition imposed in connection with proposed property development, or otherwise, to waive rights to object to the property owner's individual assessment (including the determination of special benefits allocable to the property), or to appeal to the superior court the decision of the county council affirming the final assessment roll.

NEW SECTION. Sec. 13. PREFORMATION EXPENDITURES. The county engineer or other designated official may contract with owners of real property to provide for payment by the owners of the cost of the preparation of engineering plans, surveys, studies, appraisals, legal services, and other expenses associated with improvements to be financed in whole or in part by a local improvement district (not including the cost of actual construction of such improvements), that the owners elect to undertake. The contract may provide for reimbursement to the owner of such costs from the proceeds of bonds issued by the district after formation of a district under this chapter, from assessments paid to the district as appropriate, or by a credit in the amount of such costs against future assessments assessed against such property. Such reimbursement shall be made to the owner of the property at the time of reimbursement. The contract shall also provide that such costs shall not be reimbursed to the owner if a district to construct the specified improvements (as the project may be amended) is not formed within six years of the date of the contract. The contract shall provide that any preformation work shall be conducted only under the direction of the county engineer or other appropriate county authority.

NEW SECTION. Sec. 14. CREDITS FOR OTHER ASSESSMENTS. A county ordering a road improvement upon which special assessments on property specifically benefited by the improvements are levied and collected, may provide as part of the ordinance creating the road improvement district that moneys paid or the cost of facilities constructed by a property owner in the district in satisfaction of obligations under chapter 39.___ RCW (sections 1 through 5 of this act), shall be credited against assessments due from the owner of such property at the time the credit is made, if those moneys paid or facilities constructed directly defray the cost of the specified improvements under the district and if credit for such amounts is reflected in the final assessment roll confirmed for the district.

NEW SECTION. Sec. 15. ASSESSMENT REIMBURSEMENT ACCOUNTS. A county ordering a road improvement upon which special assessments on property specifically benefited by the improvement are levied and collected, may provide as part of the ordinance creating the road improvement district that the payment of an assessment levied for the district on underdeveloped properties may be made by owners of other properties within the district if they so elect, subject to terms of reimbursement set forth in the ordinance. The terms for reimbursement shall require the owners of underdeveloped properties on whose behalf payments of assessments have been made to reimburse all such assessment payments to the party who made them when those properties are developed or redeveloped, together with interest at a rate specified in the ordinance. The ordinance may provide that reimbursement shall be made on a one-time, lump sum basis, or may provide that reimbursement shall be made over a period not to exceed five years. The ordinance may provide that reimbursement shall be made no later than the time of dissolution of the district, or may provide that no reimbursement is due if the underdeveloped properties are not developed or redeveloped before the dissolution of the district. Reimbursement amounts due from underdeveloped properties under this section are liens upon the underdeveloped properties in the same manner and with like effect as assessments made under this chapter. For the purposes of this section, "underdeveloped properties" may include those properties that, in the discretion of the county legislative authority, (1) are undeveloped or are not developed to their highest and best use, and (2) are likely to be developed or redeveloped before the dissolution of the district.

Sec. 16. Section 4, chapter 126, Laws of 1983 and RCW 35.72.040 are each amended to read as follows:

The procedures for assessment reimbursement contracts shall be governed by the following:

(1) An assessment reimbursement area shall be formulated by the city, town, or county based upon a determination by the city, town, or county of which parcels adjacent to the improvements would require similar street improvements upon development.

(2) The preliminary determination of area boundaries and assessments, along with a description of the property owners' rights and options, shall be forwarded by ((~~registered~~)) certified mail to the property owners of record within the proposed assessment area. If any property owner requests a hearing in writing within twenty days of the mailing of the preliminary determination, a hearing shall be held before the legislative body, notice of which shall be given to all affected property owners. The legislative body's ruling is determinative and final.

(3) The contract must be recorded in the appropriate county auditor's office within thirty days of the final execution of the agreement.

(4) If the contract is so filed, it shall be binding on owners of record within the assessment area who are not party to the contract.

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. This act is intended to be prospective, not retroactive, in its application.

NEW SECTION. Sec. 18. Section captions used in this act do not constitute any part of the law.

NEW SECTION. Sec. 19. Sections 1 through 5 of this act constitute a new chapter in Title 39 RCW entitled "Local Transportation Act." Sections 8 through 11 of this act are added to chapter 35.43 RCW. Sections 12 through 15 of this act are added to chapter 36.88 RCW.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 180

[Substitute Senate Bill No. 6670]

TRENCH EXCAVATION SAFETY SYSTEMS

AN ACT Relating to public works; and adding a new section to chapter 39.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 39.04 RCW to read as follows:

On public works projects in which trench excavation will exceed a depth of four feet, any contract therefor shall require adequate safety systems for the trench excavation that meet the requirements of the Washington industrial safety and health act, chapter 49.17 RCW. This requirement shall be included in the cost estimates and bidding forms as a separate item. The costs of trench safety systems shall not be considered as incidental to any other contract item and any attempt to include the trench safety systems as an incidental cost is prohibited.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 181

[Engrossed House Bill No. 1341]
WRITE-IN VOTING

AN ACT Relating to write-in voting; amending RCW 29.36.075, 29.51.100, and 29.51-.170; and adding new sections to chapter 29.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 29.04 RCW to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may, if the jurisdiction of the office sought is entirely within one county, file a declaration of candidacy with the county auditor not later than the day before the primary or election. If the jurisdiction of the office sought encompasses more than one county the declaration of candidacy shall be filed with the secretary of state not later than the day before the primary or election. Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by political parties pursuant to RCW 29.18.160 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if applicable.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29.18.030. No write-in candidate filing under section 1 of this act may be included in any voter's pamphlet produced under chapter 29.80 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29.81A RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

NEW SECTION. Sec. 2. A new section is added to chapter 29.04 RCW to read as follows:

The secretary of state shall notify each county auditor of any declarations filed with the secretary under section 1 of this act for offices appearing on the ballot in that county. The county auditor shall ensure that those persons charged with counting the ballots for a primary or election are notified of all valid write-in candidates before the tabulation of those ballots.

Sec. 3. Section 29.36.075, chapter 9, Laws of 1965 as last amended by section 16, chapter 346, Laws of 1987 and RCW 29.36.075 are each amended to read as follows:

In counties that do not tabulate absentee ballots on electronic vote tallying systems, canvassing boards may not tabulate or record votes cast by absentee ballots on any uncontested office except write-in votes for candidates for the office of precinct committeeperson((~~s. In all counties, write-in votes for uncontested precinct committeepersons' races shall be canvassed and included with the official vote count~~)) who have filed valid declarations of candidacy under section 1 of this 1988 act. "Uncontested office" means an office where only one candidate has filed a valid declaration of candidacy either during the regular filing period or as a write-in candidate under section 1 of this 1988 act.

Each registered voter casting an absentee ballot shall be credited with voting on his or her voter registration record. Absentee ballots shall be retained for the same length of time and in the same manner as ballots cast at the precinct polling places.

Sec. 4. Section 29.51.100, chapter 9, Laws of 1965 as amended by section 15, chapter 101, Laws of 1965 ex. sess. and RCW 29.51.100 are each amended to read as follows:

On receipt of his or her ballot in an election the elector shall forthwith and without leaving the polling place retire alone to one of the places, booths, or apartments provided to prepare his or her ballot. Each elector shall prepare his or her ballot by marking a cross "X" after the name of every person or candidate for whom he or she wishes to vote.

In case of a ballot containing a constitutional amendment or other question to be submitted to the vote of the people the voter shall mark a cross "X" after the question, for or against the amendment or proposition, as the case may be. Any elector may write in the blank spaces the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by section 1 of this 1988 act for whom he or she may wish to vote((~~: PROVIDED, That where a partisan office is concerned, the voter must not only write in the name of the candidate but also the party affiliation of such person pursuant to the provisions of RCW 29.51.170 as now or hereafter amended~~)). Write-in votes cast for any other candidate must designate the office sought and the position number or political party, if applicable.

Before leaving the booth or compartment the elector shall fold ((~~his~~)) the ballot in such a manner that the number of the ballot shall appear on

the outside thereof, without displaying the marks on the face thereof, and deliver it to the inspector of election.

Sec. 5. Section 29.51.170, chapter 9, Laws of 1965 as last amended by section 1, chapter 121, Laws of 1973 1st ex. sess. and RCW 29.51.170 are each amended to read as follows:

For any office at any election or primary, any voter may write in on the ballot the name of any person ((~~for whom he desires to vote for any office~~)) for an office who has filed as a write-in candidate for the office in the manner provided by section 1 of this 1988 act and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter((~~: PROVIDED, That no write-in vote for a partisan office at a general election shall be valid for any person who has offered himself as a candidate for such position for the nomination at the preceding primary: PROVIDED, FURTHER, That when voting machines or voting devices and ballot cards are used, no write-in vote for any candidate for a partisan office at either a state primary election or state general election shall be valid unless a political party affiliation is also written by the voter after the candidate's name: AND PROVIDED FURTHER, That in the instance of a write-in candidate for a partisan office only those write-in votes constituting the greatest number of a single political party designation shall be valid for counting purposes when the canvassing authority certifies the official election returns. The same procedure must be followed when paper ballots are used for partisan offices at a state primary election. For such write-in voting, it shall not be necessary for a voter to write the full name of the political party concerned. Any abbreviation including the first letter of the political party name shall be acceptable as long as the precinct election officers can determine to their satisfaction the person voted for and the political party intended.~~

~~Any person who is nominated at any primary election as a write-in candidate for any public office but who has not previously paid the regular filing fee shall not have his name printed on the official ballot for the general election unless, within five days after the official canvass of the primary vote, he executes a declaration of candidacy and pays the same fee required by law to be paid by candidates for filing for the office for which he has been nominated~~)). No write-in vote made for any person who has not filed a declaration of candidacy pursuant to section 1 of this act is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office, position, or political party shall be accepted if the canvassing board can determine, to their satisfaction, the voter's intent.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 182

[Substitute Senate Bill No. 6435]
CONTRACTOR DISCLOSURE

AN ACT Relating to disclosure by contractors; amending RCW 18.27.114; and creating a new section.

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

Sec. 1. Section 1, chapter 419, Laws of 1987 and RCW 18.27.114 are each amended to read as follows:

(1) Until July 1, 1989, any contractor agreeing to perform any contracting project ((~~subject to this chapter on real property~~)): (a) For the repair, alteration, or construction of four or fewer residential units or accessory structures on such residential property when the bid or contract price totals one thousand dollars or more; or (b) for the repair, alteration, or construction of a commercial building when the bid or contract price totals one thousand dollars or more but less than sixty thousand dollars, must provide the customer with the following disclosure statement prior to starting work on the project:

"NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no. ....., as a general/specialty contractor and has posted with the state a bond or cash deposit of $6,000/$4,000 for the purpose of satisfying claims against the contractor for negligent or improper work or breach of contract in the conduct of the contractor's business. This bond or cash deposit may not be sufficient to cover a claim which might arise from the work done under your contract. If any supplier of materials used in your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to force payment. If you wish additional protection, you may request the contractor to provide you with original "lien release" documents from each supplier or subcontractor on your project. The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the department of labor and industries."

(2) On and after July 1, 1989, any contractor agreeing to perform any contracting project: (a) For the repair, alteration, or construction of four or fewer residential units or accessory structures on such residential property when the bid or contract price totals one thousand dollars or more; or (b) for the repair, alteration, or construction of a commercial building when the bid or contract price totals one thousand dollars or more but less than sixty

thousand dollars, must provide the customer with the following disclosure statement prior to starting work on the project:

"NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no. ....., as a general/specialty contractor and has posted with the state a bond or cash deposit of $6,000/$4,000 for the purpose of satisfying claims against the contractor for negligent or improper work or breach of contract in the conduct of the contractor's business. The expiration date of this contractor's registration is ..... . This bond or cash deposit may not be sufficient to cover a claim which might arise from the work done under your contract. If any supplier of materials used in your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to force payment. If you wish additional protection, you may request the contractor to provide you with original "lien release" documents from each supplier or subcontractor on your project. The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the department of labor and industries."

(3) On and after July 1, 1989, a contractor subject to this section shall notify any consumer to whom notice is required under subsection (2) of this section if the contractor's registration has expired or is revoked or suspended by the department prior to completion or other termination of the contract with the consumer.

(4) No contractor subject to this section may bring or maintain any ((~~action in any court of this state for the collection of compensation for the performance of any work or for breach of~~)) lien claim under chapter 60.04 RCW based on any contract to which this section applies without alleging and proving that the contractor has provided the customer with a copy of the disclosure statement as required in subsection (1) or (2) of this section.

(((~~3~~))) (5) This section does not apply to contracts authorized under chapter ((~~39.08~~)) 39.04 RCW((~~, contracts for construction of more than four residential units,~~)) or to contractors contracting with other contractors.

(((~~4~~))) (6) Failure to comply with this section shall constitute an infraction under the provisions of this chapter.

(((~~5~~))) (7) The department shall produce model disclosure statements, and public service announcements detailing the information needed to assist contractors and contractors' customers to comply under this section. As necessary, the department shall periodically update these education materials.

NEW SECTION. Sec. 2. Nothing in RCW 18.27.114 shall be construed to prohibit a contractor from voluntarily complying with the notification requirements of that section which take effect July 1, 1989, prior to that date.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 183

[Second Substitute House Bill No. 1713]

TRAUMA CARE

AN ACT Relating to trauma care; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds and declares that:

(1) Trauma is a severe health problem in the state of Washington and a major cause of death;

(2) Presently, trauma care is very limited in many parts of the state, and rural area health care is in transition with the danger that some communities will be without emergency medical care; and

(3) It is in the best interest of the citizens of Washington state to establish a state-wide trauma care system to reduce costs of inappropriate and inadequate emergency service and minimize the human suffering and costs associated with preventable mortality and morbidity.

NEW SECTION. Sec. 2. There is hereby created a steering committee composed of representatives of emergency medical providers such as physicians, nurses, hospital personnel, emergency medical technicians, paramedics, and ambulance operators, and local government officials, state officials, and persons affiliated professionally with health science schools. The governor shall appoint members of the steering committee.

NEW SECTION. Sec. 3. (1) Upon the recommendation of the steering committee, the director of the office of financial management shall contract with an independent party for an analysis of the state's trauma system.

(2) The analysis shall contain at a minimum, the following:

(a) The identification of components of a functional state-wide trauma care system, including standards; and

(b) An assessment of the current trauma care program compared with the functional state-wide model identified in subsection (a) of this section, including an analysis of deficiencies and reasons for the deficiencies.

(3) The analysis shall provide a design for a state-wide trauma care system based on the findings of the committee under subsection (2) of this

section, with a plan for phased-in implementation. The plan shall include, at a minimum, the following:

(a) Responsibility for implementation;

(b) Administrative authority at the state, regional, and local levels;

(c) Facility, equipment, and personnel standards;

(d) Triage and care criteria;

(e) Data collection and use;

(f) Cost containment strategies;

(g) System evaluation; and

(h) Projected costs.

(4) The steering committee shall submit to the appropriate committees of the legislature the results of the identification and assessment phase of the analysis by July 1, 1989, and the design plan by January 1, 1990.

NEW SECTION. Sec. 4. (1) The trauma care system trust account is hereby created in the state treasury. Moneys shall be transferred to the trauma care system trust account from the public safety education account or other sources as appropriated. Disbursements shall be made by the office of financial management subject to legislative appropriation.

(2) If a state-wide trauma care system is not established by June 30, 1992, funds in the account shall transfer to the highway safety fund and the account shall terminate.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 184

[Substitute House Bill No. 1684]
SOLID WASTE MANAGEMENT

AN ACT Relating to solid waste management; amending section 15, chapter 528, Laws of 1987 (uncodified); and adding new sections to chapter 70.95 RCW.

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

NEW SECTION. Sec. 1. The department of ecology shall determine the best management practices for categories of solid waste in accordance with the priority solid waste management methods established in RCW 70-.95.010. In order to make this determination, the department shall conduct a comprehensive solid waste stream analysis and evaluation.

NEW SECTION. Sec. 2. The comprehensive, state-wide solid waste stream analysis under section 1 of this act shall be based on representative solid waste generation areas and solid waste generation sources within the state. The following information and evaluations shall be included:

(1) Solid waste generation rates for each category;

(2) The rate of recycling being achieved within the state for each category of solid waste;

(3) The current and potential rates of solid waste reduction within the state;

(4) A technological assessment of current solid waste reduction and recycling methods and systems, including cost/benefit analyses;

(5) An assessment of the feasibility of segregating solid waste at: (a) The original source, (b) transfer stations, and (c) the point of final disposal;

(6) A review of methods that will increase the rate of solid waste reduction; and

(7) An assessment of new and existing technologies that are available for solid waste management including an analysis of the associated environmental risks and costs.

The data required by the analysis under this section shall be kept current and shall be available to local governments and the waste management industry.

NEW SECTION. Sec. 3. (1) The evaluation of the solid waste stream required in section 1 of this act shall include the following elements:

(a) The department shall determine which management method for each category of solid waste will have the least environmental impact; and

(b) The department shall evaluate the costs of various management options for each category of solid waste, including a review of market availability, and shall take into consideration the economic impact on affected parties;

(c) Based on the results of (a) and (b) of this subsection, the department shall determine the best management for each category of solid waste. Different management methods for the same categories of waste may be developed for different parts of the state.

(2) The department shall give priority to evaluating categories of solid waste that, in relation to other categories of solid waste, comprise a large volume of the solid waste stream or present a high potential of harm to human health. At a minimum the following categories of waste shall be evaluated:

(a) By January 1, 1989, yard waste and other biodegradable materials, paper products, disposable diapers, and batteries; and

(b) By January 1, 1990, metals, glass, plastics, styrofoam or rigid lightweight cellular polystyrene, and tires.

NEW SECTION. Sec. 4. The department shall incorporate the information from the analysis and evaluation conducted under sections 1 through 3 of this act to the state solid waste management plan under RCW 70.95-.260. The plan shall be revised periodically as the evaluation and analysis is updated.

NEW SECTION. Sec. 5. (1) By July 1, 1988, the department shall provide the joint select committee on preferred solid waste management with a proposed work plan and a statement of funding sources.

(2) The department shall report its findings and recommendations to the appropriate standing committees of the legislature by January 1, 1989. The report shall identify which categories of solid waste have not been evaluated and the expected date of completion.

Sec. 6. Section 15, chapter 528, Laws of 1987 (uncodified) is amended to read as follows:

(1) The Washington state legislature finds that the state faces a solid waste disposal crisis. The siting of new landfills, the location and design of new solid waste incinerators, the disposal of ash residue, and compliance with the priorities of the solid waste management act and the hazardous waste management act require that an effort be made by the state to ensure that local governments and private industry have adequate technical information, and that programs are developed to accomplish the statutory waste management priorities.

(2) A comprehensive evaluation of preferred solid waste management programs shall be undertaken by the joint select committee for preferred solid waste management. The committee shall consist of four members of the house of representatives appointed by the speaker of the house and four members of the senate appointed by the president of the senate. The committee shall involve the department of ecology, the utilities and transportation commission, and representatives of organizations representing cities, counties, the public, the waste management industry, waste haulers, and the private recycling industry. The committee shall report its findings and recommendations to the appropriate standing committees of the legislature by January 1, ((~~1988~~)) 1989.

(3) The department of ecology may provide the committee with specific recommendations on waste management programs from studies the department has undertaken as required by RCW 70.95.263.

(4) The committee shall attempt to determine the reasons why higher rates of waste reduction and recycling have not been achieved in the state and develop recommendations on how to achieve higher rates.

(5) The committee's recommendations shall include (a) specific programs for waste reduction, recycling, incineration, and landfills, (b) specific goals for solid waste management, and (c) specific responsibilities for state government, local government, and the private sectors to accomplish the committee's recommendations. The committee shall also recommend specific legislation and rule-making requirements to accomplish the committee's findings.

(6) The joint select committee for preferred solid waste management shall cease to exist on July 1, ((~~1988~~)) 1989.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act are each added to chapter 70.95 RCW.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 185

[Engrossed Substitute Senate Bill No. 6218]
PHYSICAL THERAPY

AN ACT Relating to the practice of physical therapy; amending RCW 18.74.010; and adding new sections to chapter 18.74 RCW.

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

Sec. 1. Section 1, chapter 239, Laws of 1949 as last amended by section 2, chapter 116, Laws of 1983 and RCW 18.74.010 are each amended to read as follows:

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

(1) "Board" means the board of physical therapy created by RCW 18.74.020.

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

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

(4) "Physical therapy" means the treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, cold, air, light, water, electricity, sound, massage, and therapeutic exercise, which includes posture and rehabilitation procedures; the performance of tests and measurements of ((~~neuro-muscular~~)) neuromuscular function as an aid to the diagnosis or treatment of any human condition; performance of treatments on the basis of test findings after consultation with and periodic review by an authorized health care practitioner except as provided in section 2 of this 1988 act until June 30, 1991; supervision of selective forms of treatment by trained supportive personnel; and provision of consultative services for health, education, and community agencies. The use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and ((~~chiropractic practices as defined by RCW 18.25.005, which include the adjustment or manipulation of the articulations of the spine and its immediate articulations or mobilization of these articulations by use of a thrusting force~~)) the use of spinal manipulation or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(5) "Physical therapist" means a person who practices physical therapy as defined in this chapter but does not include massage operators as defined in RCW 18.108.010.

(6) Words importing the masculine gender may be applied to females.

(7) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, podiatrists, and dentists: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

NEW SECTION. Sec. 2. A new section is added to chapter 18.74 RCW to read as follows:

Notwithstanding the provisions of RCW 18.74.010(4), a consultation and periodic review by an authorized health care practitioner is not required for treatment of neuromuscular or musculoskeletal conditions: PROVIDED, That a physical therapist may only provide treatment utilizing orthoses that support, align, prevent, or correct any structural problems intrinsic to the foot or ankle by referral or consultation from an authorized health care practitioner. The legislative budget committee shall review whether the practices authorized under this section shall be continued and shall report to the legislature by January 1, 1991.

NEW SECTION. Sec. 3. A new section is added to chapter 18.74 RCW to read as follows:

(1) Physical therapists shall refer persons under their care to authorized health care practitioners if they have reasonable cause to believe symptoms or conditions are present which require services beyond the scope of their practice or for which physical therapy is contraindicated.

(2) A violation of this section is unprofessional conduct under this chapter and chapter 18.130 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 18.74 RCW to read as follows:

(1)Physical therapists shall not advertise that they perform spinal manipulation or manipulative mobilization of the spine.

(2) A violation of this section is unprofessional conduct under this chapter and chapter 18.130 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 18.74 RCW to read as follows:

This chapter shall not be construed to restrict the ability of any insurance entity regulated by Title 48 RCW, or any state agency or program from limiting or controlling the utilization of physical therapy services by the use of any type of gatekeeper function; nor shall it be construed to require or prohibit that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided

by a person licensed under this chapter. For the purpose of this chapter, "gatekeeper function" means any provision in a contract which establishes a threshold requirement, such as a recommendation from a case manager or a primary care provider, which must be satisfied before a covered person is eligible to receive benefits under the contract.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 186

[Engrossed Substitute House Bill No. 1382]
BOARDS AND COMMITTEES, SUNSET AND TERMINATION

AN ACT Relating to termination and sunset review; amending RCW 90.44.410 and 43-.63A.230; adding a new section to chapter 43.168 RCW; adding new sections to chapter 43.131 RCW; repealing RCW 77.12.670, 77.12.680, 77.12.690, 43.155.010, 43.155.020, 43.155.030, 43.155.040, 43.155.050, 43.155.060, 43.155.070, 43.155.080, 43.155.090, 43.168.030, 43.240-.010, 43.240.020, 43.240.030, 43.240.040, 43.240.050, 43.240.060, 43.240.070, 43.30.380, 31-.30.140, 43.63A.310, 43.63A.320, 43.63A.330, 70.94.487, 67.34.011, and 67.34.021; repealing section 2, chapter 316, Laws of 1986 (uncodified); and providing effective dates.

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

PART I
GROUND WATER MANAGEMENT ADVISORY COMMITTEES

Sec. 1. Section 2, chapter 453, Laws of 1985 and RCW 90.44.410 are each amended to read as follows:

(1) ((~~To assist in the development of ground water management programs, a ground water management advisory committee, with representation from major user and public interest groups, and state and local governments shall be appointed by the department for each area or sub-area. The procedure for advisory committee appointment, terms of appointment, and committee responsibilities shall be addressed in the rules prepared under RCW 90.44.400.~~

~~(2)~~)) The ground water area or sub-area management programs shall include:

(a) A description of the specific ground water area or sub-areas, or separate depth zones within any such area or sub-area, and the relationship of this zone or area to the land use management responsibilities of county government;

(b) A management program based on long-term monitoring and resource management objectives for the area or sub-area;

(c) Identification of water resources and the allocation of the resources to meet state and local needs;

(d) Projection of water supply needs for existing and future identified user groups and beneficial uses;

(e) Identification of water resource management policies and/or practices that may impact the recharge of the designated area or policies that may affect the safe yield and quantity of water available for future appropriation;

(f) Identification of land use and other activities that may impact the quality and efficient use of the ground water, including domestic, industrial, solid, and other waste disposal, underground storage facilities, or storm water management practices;

(g) The design of the program necessary to manage the resource to assure long-term benefits to the citizens of the state;

(h) Identification of water quality objectives for the aquifer system which recognize existing and future uses of the aquifer and that are in accordance with department of ecology and department of social and health services drinking and surface water quality standards;

(i) Long-term policies and construction practices necessary to protect existing water rights and subsequent facilities installed in accordance with the ground water area or sub-area management programs and/or other water right procedures;

(j) Annual withdrawal rates and safe yield guidelines which are directed by the long-term management programs that recognize annual variations in aquifer recharge;

(k) A description of conditions and potential conflicts and identification of a program to resolve conflicts with existing water rights;

(l) Alternative management programs to meet future needs and existing conditions, including water conservation plans; and

(m) A process for the periodic review of the ground water management program and monitoring of the implementation of the program.

((~~(3)~~)) (2) The ground water area or sub-area management programs shall be submitted for review in accordance with the state environmental policy act.

NEW SECTION. Sec. 2. Section 1 of this act shall take effect June 30, 1998.

PART II
MIGRATORY WATERFOWL ART COMMITTEE

NEW SECTION. Sec. 3. A new section is added to chapter 43.131 RCW to read as follows:

The migratory waterfowl art committee and its powers and duties shall be terminated on June 30, 1994, as provided in section 4 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 43.131 RCW to read as follows:

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

(1) Section 4, chapter 243, Laws of 1985, section 53, chapter 506, Laws of 1987 and RCW 77.12.670;

(2) Section 5, chapter 243, Laws of 1985, section 54, chapter 506, Laws of 1987 and RCW 77.12.680; and

(3) Section 6, chapter 243, Laws of 1985, section 55, chapter 506, Laws of 1987 and RCW 77.12.690.

PART III
PUBLIC WORKS BOARD

NEW SECTION. Sec. 5. A new section is added to chapter 43.131 RCW to read as follows:

The public works board and its powers and duties shall be terminated on June 30, 1993, as provided in section 6 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1994:

(1) Section 7, chapter 446, Laws of 1985 and RCW 43.155.010;

(2) Section 8, chapter 446, Laws of 1985 and RCW 43.155.020;

(3) Section 9, chapter 446, Laws of 1985 and RCW 43.155.030;

(4) Section 10, chapter 446, Laws of 1985 and RCW 43.155.040;

(5) Section 8, chapter 471, Laws of 1985 and RCW 43.155.050;

(6) Section 11, chapter 446, Laws of 1985 and RCW 43.155.060;

(7) Section 12, chapter 446, Laws of 1985, section 40, chapter 505, Laws of 1987 and RCW 43.155.070;

(8) Section 13, chapter 446, Laws of 1985, section 41, chapter 505, Laws of 1987 and RCW 43.155.080; and

(9) Section 6, chapter 19, Laws of 1987 and RCW 43.155.090.

PART IV
STATE DEVELOPMENT LOAN FUND COMMITTEE

NEW SECTION. Sec. 7. A new section is added to chapter 43.168 RCW to read as follows:

The Washington state development loan fund committee shall be terminated on June 30, 1994, and its powers and duties transferred to the director of the department of community development.

NEW SECTION. Sec. 8. Section 3, chapter 164, Laws of 1985 and RCW 43.168.030, as now existing or hereafter amended, are each repealed, effective June 30, 1994.

PART V
STATE ECONOMIC DEVELOPMENT BOARD

NEW SECTION. Sec. 9. A new section is added to chapter 43.131 RCW to read as follows:

The state economic development board and its powers and duties shall be terminated on June 30, 1993, as provided in section 10 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1994:

(1) Section 9, chapter 467, Laws of 1985 and RCW 43.240.010;

(2) Section 10, chapter 467, Laws of 1985 and RCW 43.240.020;

(3) Section 11, chapter 467, Laws of 1985, section 15, chapter 195, Laws of 1987 and RCW 43.240.030;

(4) Section 12, chapter 467, Laws of 1985 and RCW 43.240.040;

(5) Section 13, chapter 467, Laws of 1985 and RCW 43.240.050;

(6) Section 14, chapter 467, Laws of 1985 and RCW 43.240.060; and

(7) Section 16, chapter 467, Laws of 1985 and RCW 43.240.070.

PART VI
COMMITTEE TO STUDY WATER AVAILABILITY IN COLUMBIA BASIN AREA

NEW SECTION. Sec. 11. Section 2, chapter 316, Laws of 1986 (uncodified), as now existing or hereafter amended, is repealed, effective June 30, 1994.

PART VII
NATURAL RESOURCES RECREATION ADVISORY COMMITTEE

NEW SECTION. Sec. 12. Section 12, chapter 206, Laws of 1986 and RCW 43.30.380, as now existing or hereafter amended, are each repealed, effective June 30, 1991.

PART VIII
LAND BANK ADVISORY COMMITTEE

NEW SECTION. Sec. 13. Section 14, chapter 284, Laws of 1986 and RCW 31.30.140 are each repealed, effective June 30, 1988.

PART IX
STATE FIRE PROTECTION POLICY BOARD

NEW SECTION. Sec. 14. A new section is added to chapter 43.131 RCW to read as follows:

The state fire protection policy board and its powers and duties shall be terminated on June 30, 1996, as provided in section 15 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) Section 55, chapter 266, Laws of 1986 and RCW 43.63A.310;

(2) Section 56, chapter 266, Laws of 1986 and RCW 43.63A.320; and

(3) Section 57, chapter 266, Laws of 1986 and RCW 43.63A.330.

PART X
WOODSTOVE ADVISORY COMMITTEE

NEW SECTION. Sec. 16. Section 11, chapter 405, Laws of 1987 and RCW 70.94.487 are each repealed, effective June 30, 1988.

PART XI
EMPLOYEE OWNERSHIP ADVISORY PANEL

Sec. 17. Section 15, chapter 457, Laws of 1987 and RCW 43.63A.230 are each amended to read as follows:

(1) The department of community development shall integrate an employee ownership program within its existing technical assistance programs. The employee ownership program shall provide technical assistance to cooperatives authorized under chapter 23.78 RCW and conduct educational programs on employee ownership and self-management. The department shall include information on the option of employee ownership wherever appropriate in its various programs.

(2) ((~~The director of the department shall form an employee ownership advisory panel to assist in the development of the employee ownership program. The panel shall consist of representatives of educational institutions; local, regional, and national cooperative and employee-ownership organizations; employee-owned cooperatives; firms with employee stock ownership plans; and associate development organizations.~~

~~(3)~~)) The department shall maintain a list of firms and individuals with expertise in the field of employee ownership and utilize such firms and individuals, as appropriate, in delivering and coordinating the delivery of technical, managerial, and educational services. In addition, the department shall work with and rely on the services of the department of trade and economic development, the employment security department, and state institutions of higher education to promote employee ownership.

(((~~(4)~~))) (3) The department shall report to the governor, the trade and economic development committee of the house of representatives, the commerce and labor committee of the senate, and the ways and means committees of each house by December 1 of 1988, and each year thereafter, on the accomplishments of the employee-ownership program. Such reports shall include the number and types of firms assisted, the number of jobs created by such firms, the types of services, the number of workshops presented, the number of employees trained, and the results of client satisfaction surveys distributed to those using the services of the program.

(((~~5~~))) (4) For purposes of this section, an employee stock ownership plan qualifies as a cooperative if at least fifty percent, plus one share, of its voting shares of stock are voted on a one-person-one-vote basis.

NEW SECTION. Sec. 18. Section 17 of this act shall take effect June 30, 1993.

PART XII
WINTER RECREATION COMMISSION

NEW SECTION. Sec. 19. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1994:

(1) Section 1, chapter 526, Laws of 1987 and RCW 67.34.011; and

(2) Section 2, chapter 526, Laws of 1987 and RCW 67.34.021.

Passed the House March 7, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 187

[Substitute House Bill No. 1745]
SCHOOL DIRECTOR TERM COMMENCEMENT

AN ACT Relating to the beginning of the terms of school directors; and amending RCW 28A.57.322 and 28A.60.010.

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

Sec. 1. Section 28A.57.322, chapter 223, Laws of 1969 ex. sess. as amended by section 16, chapter 167, Laws of 1986 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 county auditor. Every person elected to the office of school director shall begin his or her term of office at the first official meeting of the board of directors following certification of the election results.

Sec. 2. Section 28A.60.010, chapter 223, Laws of 1969 ex. sess. as amended by section 14, chapter 43, Laws of 1975 and RCW 28A.60.010 are each amended to read as follows:

The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in RCW ((~~29.13.050~~)) 28A-.57.322. At the first meeting of the members of the board they shall elect a chairman from among their number who shall serve for a term of one year or until his successor is elected. The school district superintendent as defined in RCW 28A.01.100 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district.

Passed the House February 15, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 188

[Substitute House Bill No. 1460]
JURIES AND JURORS

AN ACT Relating to jury selection and summoning; amending RCW 2.36.010, 2.36.050, 2.36.063, 2.36.070, 2.36.093, 2.36.100, 2.36.110, 2.36.130, 8.04.080, 10.27.020, 10.27.040, and 36.24.020; adding new sections to chapter 2.36 RCW; creating new sections; repealing RCW 2.36.060, 2.36.090, 2.36.140, 2.36.160, 12.12.040, 12.12.060, and 12.12.100; prescribing penalties; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes the vital and unique role of the jury system in enhancing our system of justice. The purpose of this chapter is the promotion of efficient jury administration and the opportunity for widespread citizen participation in the jury system. To accomplish this purpose the legislature intends that all courts and juries of inquest in the state of Washington select, summon, and compensate jurors uniformly.

Sec. 2. Section 1, chapter 48, Laws of 1891 and RCW 2.36.010 are each amended to read as follows:

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

(1) A jury is a body of ((~~men~~)) persons temporarily selected from the qualified inhabitants of a particular district, and invested with power——

((~~(1)~~)) (a) To present or indict a person for a public offense.

((~~(2)~~)) (b) To try a question of fact.

(2) "Court" when used without further qualification means any superior court or court of limited jurisdiction in the state of Washington.

(3) "Judge" means every judicial officer authorized to hold or preside over a court. For purposes of this chapter "judge" does not include court commissioners or referees.

(4) "Juror" means any person summoned for service on a petit jury, grand jury, or jury of inquest as defined in this chapter.

(5) "Grand jury" means those twelve persons impaneled by a superior court to hear, examine, and investigate evidence concerning criminal activity and corruption.

(6) "Petit jury" means a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.

(7) "Jury of inquest" means a body of persons six or fewer in number, but not fewer than four persons, summoned before the coroner or other ministerial officer, to inquire of particular facts.

(8) "Jury source list" means the list of all registered voters for any county, as compiled by each county auditor pursuant to the provisions of chapter 29.07 RCW. The list shall specify each voter's name, residence address, and precinct as shown on the original registration card of each qualified voter. The list shall be filed with the superior court by the county auditor.

(9) "Master jury list" means the list of prospective jurors from which jurors summoned to serve will be randomly selected. The master jury list shall be either randomly selected from the jury source list or may be an exact duplicate of the jury source list.

(10) "Jury term" means the period of time a person is required to serve as a juror. A jury term shall begin on the first Monday of each month and shall end on the Saturday immediately preceding the first Monday of each month, unless changed by the court. A jury term may be extended by the court if necessary for the administration of justice.

(11) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

Sec. 3. Section 4, chapter 48, Laws of 1891 as last amended by section 6, chapter 162, Laws of 1980 and RCW 2.36.050 are each amended to read as follows:

((~~A petit jury is a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn in the superior court and in courts of limited jurisdiction by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.~~)) In courts of limited jurisdiction, juries shall be selected and impaneled in the same manner as in the superior courts, except that a court of limited jurisdiction shall use the master jury list developed by the superior court ((~~judge or judges~~)) to select a jury panel. Jurors for

the jury panel may be selected at random from the population of the area served by the court.

NEW SECTION. Sec. 4. A new section is added to chapter 2.36 RCW to read as follows:

The county auditor shall prepare and file with the superior court at least annually, at a time or times set forth in an order of the judges of the superior court from the original registration files of voters of the county a list of all registered voters. The list may be divided into the respective voting precincts.

The superior court upon receipt of the list of registered voters filed by the county auditor shall use that list as the jury source list and shall compile a master jury list from the source list. The master jury list shall be certified by the superior court and filed with the county clerk. All previous jury source lists and master jury lists shall be superseded.

Upon receipt of amendments to the list of registered voters from the county auditor the superior court may update the jury source list and master jury list as maintained by the county clerk accordingly.

Sec. 5. Section 1, chapter 13, Laws of 1973 2nd ex. sess. and RCW 2.36.063 are each amended to read as follows:

The judge or judges of the superior court of any county may((~~, if they so choose, by local superior court rule,~~)) employ a properly programmed electronic data processing system or device to ((~~make random selection of jurors as required by RCW 2.36.060.~~

~~Upon determination that such system shall be employed, the judge or judges of the superior court shall direct the county auditor to provide the names and other information concerning all registered voters which have been filed with him by the registrar of voters pursuant to RCW 2.36.060.~~

~~In those counties employing the electronic data processing random selection method, the judge or judges of the superior court may determine that fair and random selection may be achieved without division of the county into three or more jury districts. Upon such determination, the judge or judges shall, during the month of July each year, order a master jury list to be selected by an unrestricted random sample from the names of all registered voters filed with the county auditor, without regard to location of precinct.~~

~~In those counties employing the electronic data processing random selection method, if the judge or judges of the superior court determine that the jury district procedure required for noncomputer jury selection is to be followed, the judge or judges shall divide the county into not less than three jury districts pursuant to RCW 2.36.060. The judge or judges shall during the month of July each year, order a master jury list to be selected by an unrestricted random sample from the names of all registered voters filed with the county auditor. Such list must contain as nearly as possible an equal number of jurors from each jury district.~~

~~The master jury list randomly selected shall contain names of a sufficient number of qualified voters to serve as jurors until the first day of August of the next calendar year, and shall be certified and filed with the county clerk. At any time the judge or judges may add to the jury list in the random selection manner by data process device as approved by the judge or judges. A certified list of the added names shall be filed with the county clerk~~)) compile the master jury list and to randomly select jurors from the master jury list.

NEW SECTION. Sec. 6. A new section is added to chapter 2.36 RCW to read as follows:

It shall be the duty of the judges of the superior court to ensure continued random selection of the master jury list and jury panels. The judges shall review the process from time to time and shall cause to be kept on file with the county clerk a description of the jury selection process. Any person who desires may inspect this description in said office.

Nothing in this chapter shall be construed as requiring uniform equipment or method throughout the state, so long as fair and random selection of the master jury list and jury panels is achieved.

Sec. 7. Section 1, chapter 57, Laws of 1911 as last amended by section 1, chapter 203, Laws of 1975 1st ex. sess. and RCW 2.36.070 are each amended to read as follows:

((~~No~~)) A person shall be competent to serve as a juror in the ((~~superior courts of the~~)) state of Washington unless ((~~he be~~)) that person:

(1) ((~~an elector and taxpayer of the state;~~

~~(2) a resident of the county in which he is called for service for more than one year preceding such time;~~

~~(3) in full possession of his faculties and of sound mind: PROVIDED, That a person shall not be precluded from the list of prospective jurors because of loss of sight in any degree. Sound mind, as used in this section, shall mean the necessary mental process utilized in reasoning to a logical conclusion; and~~

~~(4) able to read and write the English language~~)) Is less than eighteen years of age;

(2) Is not a citizen of the United States;

(3) Is not a resident of the county in which he or she has been summoned to serve;

(4) Is not able to communicate in the English language; or

(5) Has been convicted of a felony and has not had his or her civil rights restored.

Sec. 8. Section 2, chapter 13, Laws of 1973 2nd ex. sess. and RCW 2.36.093 are each amended to read as follows:

At such time as the judge or judges of ((~~the superior~~)) any court of any county shall deem that the public business requires a jury term to be

held, ((~~he or they~~)) the judge or judges shall direct ((~~the county clerk to select jurors~~)) that a jury panel be selected and summoned to serve for the ensuing jury term((~~, pursuant to RCW 2.36.090. In any county in which the judge or judges have chosen to employ the electronic data process random selection method as provided for in RCW 2.36.063, the county clerk shall within the first fifteen days of the calendar month preceding the month on which the jurors are to be called to serve, cause the names of the jurors to be selected from the master list of prospective jurors for the year placed on file in his office.~~

~~The name of a person once selected for a jury term shall be excluded from selection of jurors for subsequent terms in that jury year unless otherwise ordered by the judge or judges of superior court: PROVIDED, That at any time or for any period or periods of time, the judge or judges may direct by rule or order that all or any number or proportion of the jurors thereafter to be selected shall be selected to serve for two successive terms, to the end that not all of the jurors serving during a given period shall cease their service at the same time.~~

~~It shall be the duty and responsibility of the judge or judges of the superior court to insure that such electronic data processing system or device is employed so as to insure continued random selection of the master jury list and jurors. To that end, the judge or judges shall review the process from time to time and shall cause to be kept on file with the county clerk a description of the jury selection process. Any person who desires may inspect this description in said office.~~

~~Nothing in RCW 2.36.063 and 2.36.093 shall be construed as requiring uniform equipment or method throughout the state, so long as fair and random selection of the master jury list and jurors is achieved~~)) or terms.

NEW SECTION. Sec. 9. A new section is added to chapter 2.36 RCW to read as follows:

Persons selected to serve on a petit jury, grand jury, or jury of inquest shall be summoned by mail or personal service. The county clerk shall issue summons and thereby notify persons selected for jury duty. In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the superior court may summon jurors for any and all courts in the county or judicial district.

Sec. 10. Section 7, chapter 57, Laws of 1911 as last amended by section 1, chapter 181, Laws of 1983 and RCW 2.36.100 are each amended to read as follows:

Except for a person who is not qualified for jury service under RCW 2.36.070, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, prior jury service ((~~twice~~)) once in the last ((~~five~~)) two years, or any reason deemed sufficient by the court for a period of time the court deems necessary. An excuse for prior service ((~~shall apply only in class AA and class A~~

~~counties, and~~)) shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction ((or)) , in the United States District Court, or on a jury of inquest.

Sec. 11. Section 3, chapter 191, Laws of 1925 ex. sess. and RCW 2.36.110 are each amended to read as follows:

It shall be the duty of a ((~~superior~~)) judge to excuse from further jury service any juror, who in the opinion of the judge, has manifested unfitness as a juror by reason of bias, prejudice, indifference, inattention or any physical or mental defect or by reason of conduct or practices incompatible with proper and efficient jury service.

Sec. 12. Section 6, chapter 57, Laws of 1911 and RCW 2.36.130 are each amended to read as follows:

If for any reason the jurors drawn for service upon a ((~~petit~~)) jury for any term shall not be sufficient to dispose of the pending jury business, or where no jury is in regular attendance and the business of the court may require the attendance of a jury before a regular term, the judge or judges of ((~~the superior~~)) any court may ((~~draw~~)) direct the random selection and summoning from the master jury list such additional names as they may consider necessary((~~, and the persons whose names are so drawn shall thereupon be summoned to serve as jurors forthwith. The judge or judges drawing such additional names, may, in his or their discretion, order and direct that, of such additional jurors, only those living nearest to the county seat or most conveniently reached and found shall be at first summoned by the sheriff, and at any time when a sufficiency of such persons has been summoned and produced in court, such judge or judges may, in his or their discretion, order and direct the sheriff not to summon the remainder of the additional jurors so drawn. By stipulation or agreement made in open court as a part of the record, the parties to any action may agree that an open venire may be issued to make up a jury in that action, and upon order of the court approving such stipulation and directing the number of jurors to be drawn, the clerk shall issue an open venire, and the sheriff shall fill the same by summoning from the bystanders, or elsewhere, a sufficient number of persons to fill the open venire~~)).

NEW SECTION. Sec. 13. A new section is added to chapter 2.36 RCW to read as follows:

(1) An employer shall provide an employee with a sufficient leave of absence from employment to serve as a juror when that employee is summoned pursuant to chapter 2.36 RCW.

(2) An employer shall not deprive an employee of employment or threaten, coerce, or harass an employee, or deny an employee promotional

opportunities because the employee receives a summons, responds to the summons, serves as a juror, or attends court for prospective jury service.

(3) An employer who intentionally violates subsection (1) or (2) of this section shall be guilty of a misdemeanor.

(4) If an employer commits an act in violation of subsection (2) of this section the employee may bring a civil action for damages as a result of the violation and for an order requiring the reinstatement of the employee. If the employee prevails, the employee shall be allowed a reasonable attorney's fee as determined by the court.

(5) For purposes of this section employer means any person, association, partnership, or private or public corporation who employs or exercises control over wages, hours, or working conditions of one or more employees.

NEW SECTION. Sec. 14. A new section is added to chapter 2.36 RCW to read as follows:

A person summoned for jury service who intentionally fails to appear as directed shall be guilty of a misdemeanor.

Sec. 15. Section 3, chapter 213, Laws of 1955 and RCW 8.04.080 are each amended to read as follows:

The order shall direct that determination be had of the compensation and damages to be paid all parties interested in the land, real estate, premises or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by such taking and appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and the use by the state of the lands, real estate, premises, and other property described in the petition. The determination shall be made within thirty days after the entry of such order, before a jury if trial by jury is demanded at the hearing either by the petitioner or by the respondents, otherwise by the court sitting without a jury. If no regular venire has been called so as to be available to serve within such time on application of the petitioner at the hearing, the court may by its order continue such determination to the next regular jury term if a regular venire will be called within sixty days, otherwise the court shall call a special jury within said sixty days and direct ((~~the sheriff to summon~~)) that a jury panel be selected and summoned pursuant to chapter 2.36 RCW, from the citizens of the county in which the lands, real estate, premises, or other property sought to be appropriated are situated, as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the petitioner and respondents both consent to a less number of jurors (such number to be not less than three), and such consent is entered by the clerk in the minutes of such hearing. In any third class county or lesser classification, the costs of such special jury for the trial of such condemnation cases only shall be borne by the state.

Sec. 16. Section 2, chapter 67, Laws of 1971 ex. sess. and RCW 10-.27.020 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "court" shall mean any superior court in the state of Washington.

(2) The term "public attorney" shall mean the prosecuting attorney of the county in which a grand jury or special grand jury is impaneled; the attorney general of the state of Washington when acting pursuant to RCW 10.27.070(9) and, the special prosecutor appointed by the governor, pursuant to RCW 10.27.070(10), and their deputies or special deputies.

(3) The term "indictment" shall mean a written accusation found by a grand jury.

(4) The term "principal" shall mean any person whose conduct is being investigated by a grand jury or special inquiry judge.

(5) The term "witness" shall mean any person summoned to appear before a grand jury or special inquiry judge to answer questions or produce evidence.

(6) A "grand jury" consists of ((~~not less than~~)) twelve ((~~nor more than seventeen~~)) persons, is impaneled by a superior court and constitutes a part of such court. The functions of a grand jury are to hear, examine and investigate evidence concerning criminal activity and corruption and to take action with respect to such evidence. The grand jury shall operate as a whole and not by committee.

(7) A "special inquiry judge" is a superior court judge designated by a majority of the superior court judges of a county to hear and receive evidence of crime and corruption.

Sec. 17. Section 4, chapter 67, Laws of 1971 ex. sess. and RCW 10-.27.040 are each amended to read as follows:

((~~The court shall select the~~)) Members of the grand jury ((~~from either the petit jury panel, or from a grand jury panel of one hundred individuals drawn by lot~~)) shall be selected in the manner provided ((~~for petit jury panels under~~)) in chapter 2.36 RCW((~~, or from both~~)).

Sec. 18. Section 36.24.020, chapter 4, Laws of 1963 and RCW 36.24-.020 are each amended to read as follows:

Any coroner, in his or her discretion, may hold an inquest if ((~~he~~)) the coroner suspects that the death of a person was unnatural, or violent, or resulted from unlawful means, or from suspicious circumstances, or was of such a nature as to indicate the possibility of death by the hand of the deceased or through the instrumentality of some other person: PROVIDED, That, except under suspicious circumstances, no inquest shall be held following a traffic death.

The coroner in the county where an inquest is to be convened pursuant to this chapter shall ((~~summon six good and lawful persons to serve as jurors and~~)) notify the superior court to provide persons to serve as a jury of

inquest to hear all the evidence concerning the death and to inquire into and render a true verdict on the cause of death. Jurors shall be selected and summoned in the same manner and shall have the same qualifications as specified in chapter 2.36 RCW. The prosecuting attorney having jurisdiction shall be notified in advance of any such inquest to be held, and at his discretion may be present at and assist the coroner in the conduct of the same. The coroner may adjourn the inquest from time to time as he may deem necessary.

The costs of inquests shall be borne by the county in which the inquest is held.

NEW SECTION. Sec. 19. (1) The judicial council shall direct the office of the administrator for the courts to conduct a study to determine the advisability of using other lists in addition to the jury source list as defined in section 2(8) of this act to expand the source for potential jurors.

(2) The office of the administrator for the courts shall complete its study and the judicial council shall report its findings and recommendations to the house committee on judiciary and senate committee on law and justice no later than January 9, 1989.

(3) This section shall expire on January 9, 1989.

NEW SECTION. Sec. 20. Pursuant to an agreement between the judge or judges of each superior court and the judge or judges of each court of limited jurisdiction, jury management activities may be performed by the superior court for any county or judicial district as provided by statute.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 57, Laws of 1911, section 1, chapter 26, Laws of 1921, section 1, chapter 191, Laws of 1925, section 1, chapter 238, Laws of 1943, section 1, chapter 287, Laws of 1961, section 1, chapter 92, Laws of 1967, section 1, chapter 135, Laws of 1979 ex. sess. and RCW 2.36.060;

(2) Section 4, chapter 57, Laws of 1911, section 2, chapter 191, Laws of 1925 ex. sess., section 1, chapter 65, Laws of 1965 and RCW 2.36.090;

(3) Section 8, chapter 57, Laws of 1911 and RCW 2.36.140; and

(4) Section 5, chapter 48, Laws of 1891 and RCW 2.36.160.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

(1) Section 71, page 235, Laws of 1854, section 1771, Code of 1881, section 2, page 118, Laws of 1888 and RCW 12.12.040;

(2) Section 73, page 236, Laws of 1854, section 1773, Code of 1881, section 4, page 119, Laws of 1888, section 1, chapter 119, Laws of 1975 1st ex. sess. and RCW 12.12.060; and

(3) Section 79, page 236, Laws of 1854, section 78, page 348, Laws of 1873, section 1779, Code of 1881 and RCW 12.12.100.

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. Except for section 19, this act shall take effect January 1, 1989. Section 19 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 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 189

[Engrossed Substitute Senate Bill No. 6207]
FOSTER CARE—PLACEMENT OF CHILDREN WITH RELATIVE

AN ACT Relating to foster care; amending RCW 13.34.130; reenacting and amending RCW 74.15.030; and creating a new section.

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

NEW SECTION. Sec. 1. The department shall immediately establish an advisory task force to examine current procedures regarding the use of out-of-home placements with relatives, identify barriers to increased and early placement of children with relatives, and recommend procedures to encourage immediate placement of children with relatives, when appropriate, if removal from parental custody is necessary. The task force shall prepare a report which sets forth findings and recommendations and the results of any department innovations or programs which have been implemented to encourage placement of children with relatives. The final report shall be submitted to the legislature prior to December 15, 1988.

Sec. 2. Section 4, chapter 188, Laws of 1984 and RCW 13.34.130 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13-.34.110 and after a disposition hearing has been held pursuant to RCW 13-.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already

suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. ((~~Such~~)) Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home and that:

(i) There is no parent or guardian available to care for such child;

(ii) The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian;

(iii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iv) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home; or

(v) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties.

(a) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody and what requirements the parents must meet in order to resume custody.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(3) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent–child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(4) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

(v) When return of the child can be expected.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

Sec. 3. Section 3, chapter 172, Laws of 1967 as last amended by section 14, chapter 486, Laws of 1987 and by section 13, chapter 524, Laws of 1987 and RCW 74.15.030 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's 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 designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) 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 and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13-.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.060 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including day care centers and family day care homes, to determine whether the abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13-.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with the children's services advisory committee; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 190

[Engrossed Senate Bill No. 6705]

CHILD SEXUAL OR PHYSICAL ABUSE—REMOVAL OF OFFENDER FROM HOME—RESTRAINING ORDERS—ARREST WITHOUT WARRANT

AN ACT Relating to dependent children; and amending RCW 13.34.130 and 26.44.063; reenacting and amending RCW 10.31.100; adding a new section to chapter 26.44 RCW; and prescribing penalties.

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

Sec. 1. Section 1, chapter 66, Laws of 1987, section 1, chapter 154, Laws of 1987, section 2, chapter 277, Laws of 1987, section 20, chapter 280, Laws of 1987 and RCW 10.31.100 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (8) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270 shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) The person is eighteen years or older and within the preceding four hours has assaulted that person's spouse, former spouse, or a person eighteen years or older with whom the person resides or has formerly resided and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably

to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.02.095 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

((~~(6)~~)) (7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(((~~6~~))) (8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(((~~7~~))) (9) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(((~~8~~))) (10) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) or (((~~6~~))) (8) if the police officer acts in good faith and without malice.

Sec. 2. Section 4, chapter 188, Laws of 1984 and RCW 13.34.130 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13-.34.110 and after a disposition hearing has been held pursuant to RCW 13-.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Such an order may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home and that:

(i) There is no parent or guardian available to care for such child;

(ii) The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian;

(iii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iv) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(v) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent–child ties.

(a) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody and what requirements the parents must meet in order to resume custody.

(b) The agency shall be required to encourage the maximum parent–child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(3) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

(v) When return of the child can be expected.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

Sec. 3. Section 1, chapter 35, Laws of 1985 and RCW 26.44.063 are each amended to read as follows:

(1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged offender, rather than the child, shall be removed from the home and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, 13.34.130, this section, and section 4 of this 1988 act.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court; or

(c) Having any contact with the alleged victim, except as specifically authorized by the court.

((~~(2)~~)) (3) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

((~~(3)~~)) (4) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

(5) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

((~~(4)~~)) (6) A temporary restraining order or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding; and

(b) May be revoked or modified.

((~~(5)~~)) (7) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

(8) Wilful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.44 RCW and will subject a violator to arrest."

NEW SECTION. Sec. 4. A new section is added to chapter 26.44 RCW to read as follows:

When a peace officer responds to a call alleging that a child has been subjected to sexual or physical abuse and has probable cause to believe that a crime has been committed or responds to a call alleging that a temporary restraining order or preliminary injunction has been violated, the peace officer has the authority to arrest the person without a warrant pursuant to RCW 10.31.100.

Passed the Senate March 8, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 191

[Substitute Senate Bill No. 6376]

MOTOR VEHICLE EXCISE TAX—ADDITIONAL TAX TO HELP FUND FERRY SYSTEM EXTENDED

AN ACT Relating to motor vehicle excise tax; reenacting and amending RCW 82.44.020; and creating a new section.

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

Sec. 1. Section 82.44.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 260, Laws of 1987 and by section 5, chapter 9, Laws of 1987 1st ex. sess. and RCW 82.44.020 are each reenacted and amended to read as follows:

(1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under reciprocal agreements, the provisions of RCW 46.16.160 as now or hereafter amended, or dealer's licenses. The annual amount of such excise tax shall be two percent of the fair market value of such vehicle.

(2) An additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the fair market value of such vehicle.

(3) Effective with January, 1989, motor vehicle license expirations, and ending after December, ((~~1990~~)) 1991, expirations, an additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise tax shall be one-tenth of one percent of the fair market value of such vehicle.

(4) The department of licensing and county auditors shall collect the additional tax imposed by subsections (2) and (3) of this section for any registration year for the months of that registration year in which such additional tax is effective, and in the same manner and at the same time as the tax imposed by subsection (1) of this section.

(5) In no case shall the total tax be less than two dollars except for proportionally registered vehicles.

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

(7) Washington residents, as defined in RCW 46.16.028, who license motor vehicles in another state or foreign country and avoid Washington motor vehicle excise taxes are liable for such unpaid excise taxes. The department of revenue may assess and collect the unpaid excise taxes under chapter 82.32 RCW, including the penalties and interest provided therein.

NEW SECTION. Sec. 2. A joint committee is created to study the state motor vehicle excise tax. The study shall include a historical review of the distribution of the tax revenues, the current distribution of the tax revenues, and an evaluation of the current and historical purposes of the tax revenue distributions. The joint committee shall report its findings, including any recommended changes to the motor vehicle excise tax, to the house and senate standing committees on transportation and ways and means by November 1, 1988.

The chairpersons of the house transportation committee, the senate transportation committee, the senate ways and means committee, and the house ways and means committee shall each appoint three of its members to serve on the joint committee. The directors of the office of financial management and the department of licensing and the secretary of the department of transportation shall each appoint one employee of their respective departments to serve on the joint committee. The committee shall sunset on

November 30, 1988. The members of the joint committee shall elect a chairperson from the membership of the committee.

Passed the Senate March 9, 1988.
Passed the House March 8, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 192

[Substitute House Bill No. 1329]

HOMESTEADS

AN ACT Relating to homesteads; and amending RCW 6.13.080 and 64.32.200.

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

Sec. 1. Section 1, chapter 10, Laws of 1982 as last amended by section 208, chapter 442, Laws of 1987 and RCW 6.13.080 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises;

(2) On debts secured by purchase money security agreements describing as collateral the mobile home that is claimed as a homestead or by mortgages or deeds of trust on the premises, executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance; or

(5) On debts secured by a condominium's or homeowner association's lien. In order for an association to be exempt under this provision, the association must have provided a homeowner with notice that nonpayment of the association's assessment may result in foreclosure of the association lien and that the homestead protection under this chapter shall not apply. An association has complied with this notice requirement by mailing the notice, by first class mail, to the address of the owner's lot or unit. The notice required in this subsection shall be given within thirty days from the date the association learns of a new owner, but in all cases the notice must be given prior to the initiation of a foreclosure. The phrase "learns of a new owner"

in this subsection means actual knowledge of the identity of a homeowner acquiring title after the effective date of this 1988 act and does not require that an association affirmatively ascertain the identity of a homeowner. Failure to give the notice specified in this subsection affects an association's lien only for debts accrued up to the time an association complies with the notice provisions under this subsection.

Sec. 2. Section 20, chapter 156, Laws of 1963 as amended by section 6, chapter 11, Laws of 1965 ex. sess. and RCW 64.32.200 are each amended to read as follows:

(1) The declaration may provide for the collection of all sums assessed by the association of apartment owners for the share of the common expenses chargeable to any apartment and the collection may be enforced in any manner provided in the declaration including but not limited to (a) ten days notice shall be given the delinquent apartment owner to the effect that unless such assessment is paid within ten days any or all utility services will be forthwith severed and shall remain severed until such assessment is paid, or (b) collection of such assessment may be made by such lawful method of enforcement, judicial or extra-judicial, as may be provided in the declaration and/or bylaws.

(2) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only (a) tax liens on the apartment in favor of any assessing unit and/or special district, and (b) all sums unpaid on all mortgages of record. Such lien is not subject to the ban against execution or forced sales of homesteads under RCW 6.13.080 and may be foreclosed by suit by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in such foreclosures shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid ((in)) on the apartment at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment, the period of redemption shall be eight months after the sale. Suit to recover any judgment for any unpaid common expenses shall be maintainable without foreclosing or waiving the liens securing the same.

(3) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtains possession of the apartment as a result of foreclosure of the mortgage, such possessor, his successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to such apartment which became due

prior to such possession. Such unpaid share of common expenses of assessments shall be deemed to be common expenses collectible from all of the apartment owners including such possessor, his successors and assigns.

Passed the House February 11, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 193

[Substitute House Bill No. 1383]

ALCOHOL AND DRUG TREATMENT COUNSELORS—MONITOR VERIFICATION OF QUALIFICATIONS

AN ACT Relating to alcoholism treatment; and amending RCW 69.54.040 and 70.96A.040.

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

Sec. 1. Section 4, chapter 304, Laws of 1971 ex. sess. as amended by section 15, chapter 193, Laws of 1982 and RCW 69.54.040 are each amended to read as follows:

The secretary shall establish within the department a program designed to aid and rehabilitate persons suffering from problems relating to narcotic drugs, dangerous drugs, and alcohol. Without duplicating, and in coordination with the programs established by the state superintendent of public instruction, the secretary shall establish community educational programs outside of the kindergarten through twelve programs in the schools relating to alcohol and drug use and abuse. In addition, the secretary may enter into agreements for monitoring of verification of qualifications of counselors employed by approved drug treatment centers. The secretary is authorized to promulgate rules and regulations pursuant to chapter 34.04 RCW to carry out the provisions and purposes of this chapter and is authorized to contract, cooperate and coordinate with other public or private agencies or individuals for such purposes.

Sec. 2. Section 4, chapter 122, Laws of 1972 ex. sess. and RCW 70-.96A.040 are each amended to read as follows:

The department, in the operation of the alcoholism program may:

(1) Plan, establish, and maintain treatment programs as necessary or desirable;

(2) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services

rendered or furnished to alcoholics, persons incapacitated by alcohol, or intoxicated persons, and to enter into agreements for monitoring of verification of qualifications of counselors employed by approved treatment facilities;

(3) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(4) Administer or supervise the administration of the provisions relating to alcoholics and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(5) Coordinate its activities and cooperate with alcoholism programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons and for the common advancement of alcoholism programs;

(6) Keep records and engage in research and the gathering of relevant statistics;

(7) Do other acts and things necessary or convenient to execute the authority expressly granted to it; and

(8) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide treatment facilities for alcoholics, persons incapacitated by alcohol, and intoxicated persons.

Passed the House February 16, 1988.
Passed the Senate March 7, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 194

[Engrossed Substitute House Bill No. 1586]
DEPENDENCY—PLACEMENT PLAN—HEARING

AN ACT Relating to dependency; amending RCW 13.34.130 and 13.34.070; and adding a new section to chapter 13.34 RCW.

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

Sec. 1. Section 4, chapter 188, Laws of 1984 and RCW 13.34.130 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after

consideration of the predisposition report prepared pursuant to RCW 13-.34.110 and after a disposition hearing has been held pursuant to RCW 13-.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Such an order may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home and that:

(i) There is no parent or guardian available to care for such child;

(ii) The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian;

(iii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iv) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home; or

(v) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(a) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody ((~~and~~)) , what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(3) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

(v) When return of the child can be expected.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

Sec. 2. Section 6, chapter 160, Laws of 1913 as last amended by section 3, chapter 311, Laws of 1983 and RCW 13.34.070 are each amended to read as follows:

(1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not

living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons. ((~~The hearing on the petition shall be set for a time no later than forty-five days after the filing of the petition and shall be held at such time, unless for good cause the hearing is continued to a later time at the request of either party.~~)) The hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances do exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel.

(4) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(5) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of shelter designated by the court.

(6) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (4) or (5) of this section, and if the person fails to abide by the order, he may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:
VIOLATION OF THIS ORDER
IS SUBJECT TO PROCEEDING
FOR CONTEMPT OF COURT
PURSUANT TO RCW 13.34.070.

(7) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally at least five court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail at least ten court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be

found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(8) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department of social and health services social worker.

(9) In any proceeding brought under this chapter where the court knows or has reason to know that the child involved is a member of an Indian tribe, notice of the pendency of the proceeding shall also be sent by registered mail, return receipt requested, to the child's tribe. If the identity or location of the tribe cannot be determined, such notice shall be transmitted to the secretary of the interior of the United States.

NEW SECTION. Sec. 3. A new section is added to chapter 13.34 RCW to read as follows:

A dependency may only be maintained for a maximum period of two years, at which time the court shall: (1) Approve a permanent plan of care which can include one of the following: Adoption, guardianship, or placement of the child in the home of the child's parent; (2) require filing of a petition for termination of parental rights; or (3) dismiss the dependency, unless the court finds, based on clear, cogent, and convincing evidence, that it is in the best interest of the child to continue the dependency beyond two years, based on a permanent plan of care. Extensions may only be granted in increments of six months or less unless a juvenile court guardianship is in effect.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 195

[House Bill No. 1649]

RETIREMENT—PORTABILITY

AN ACT Relating to clarifying the administration of public employment retirement portability benefits; amending RCW 41.54.010, 41.54.030, 41.54.040, 41.54.070, and 41.04.270; adding a new section to chapter 41.54 RCW; and providing an effective date.

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

Sec. 1. Section 1, chapter 192, Laws of 1987 and RCW 41.54.010 are each amended to read as follows:

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

(1) ((~~"Actuary" means the state actuary as established under chapter 44.44 RCW.~~

~~(2)~~)) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions ((~~established pursuant to sections 403(b), 414(h), and 457~~)) of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(((~~(3) "Average compensation" means, respectively, "final compensation" as defined in RCW 41.28.010 and 41.44.030(14), "average final compensation" as defined in RCW 41.32.010 and 41.40.010, "average earnable compensation" as used in RCW 41.32.498, and "average final salary" as defined in RCW 43.43.120.~~

~~(4) "Service retirement allowance" means, respectively, "retirement allowance" as used or defined in RCW 41.28.130, 41.32.010, 41.40.010, 41.44.030(22), and 43.43.260.~~

~~(5) "Current system average final compensation" means that compensation or average compensation used in the service retirement benefit calculation of the current system with compensation being either that earned in the current system or the base salary earned in a prior system, whichever produces the greater benefit.~~

~~(6) "Prior system average final compensation" means the compensation or average compensation used in the service retirement benefit calculation of the prior system, with compensation being either that earned in the prior system or the base salary earned in any system in which dual membership is held, whichever produces the greater benefit.~~

~~(7) "Compensation" means, respectively, "compensation earnable" as defined in RCW 41.28.010, "earnable compensation" as defined in RCW 41.32.010, "compensation earnable" as defined in RCW 41.40.010, "compensation earnable" as defined in RCW 41.44.030, and "average final salary" as used in RCW 43.43.120(15).~~

~~(8) "Current system" means the system in which a member is currently making contributions and accruing service credit.~~

~~(9)~~)) (2) "Department" means the department of retirement systems.

(((~~(10)~~))) (3) "Director" means the director of the department of retirement systems.

(((~~(11)~~))) (4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one

or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from ((~~a prior~~)) any retirement system listed in RCW 41.50-.030 or subsection (6) of this section.

((~~(12) "Prior system" means a system in which a person had previous membership but is no longer making member contributions.~~

~~(13)~~)) (5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

((~~(14)~~)) (6) "System" means the retirement systems established under chapters ((~~41.28;~~)) 41.32, 41.40, ((~~41.44;~~)) and 43.43 RCW and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.060.

Sec. 2. Section 3, chapter 192, Laws of 1987 and RCW 41.54.030 are each amended to read as follows:

(1) ((~~As used in this section, the percentage factor to be used in calculating a benefit under chapter 41.28 RCW shall be determined using only the service earned in a retirement system created under that chapter.~~

~~(2) The service retirement allowances to be paid to a dual member upon retiring from the current system because of service shall be the sum of:~~

~~(a) The service retirement allowance received under the current system as a result of multiplying the current system average final compensation by the percentage factor of the current system and the service earned under the current system; and~~

~~(b) The sum of the respective service retirement allowances received under prior systems as a result of multiplying each prior system's average final compensation by the percentage factor of that prior system and the service earned under that prior system.~~

~~(3) Eligibility to receive a service benefit under this chapter shall be based on (a) the criteria of any system in which dual membership is held, and (b) the dual member's combined systems' service.~~)) A dual member's service in all systems may be combined for the sole purpose of determining the member's eligibility to receive a service retirement allowance. This subsection does not, however, permit a member to combine service for the purpose of determining the percentage factor to be used in calculating a service retirement allowance in the city employee retirement systems for Seattle and Tacoma.

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be

allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this ((~~chapter~~)) section, would not be allowed to be paid at this date based on the dual member's age shall be either actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system, or the dual member may choose to defer the benefit until fully eligible.

Sec. 3. Section 4, chapter 192, Laws of 1987 and RCW 41.54.040 are each amended to read as follows:

(1) The retirement allowances calculated under RCW 41.54.030 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) If a dual member dies in service in any system, the surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death based on service actually established in that system. However, this subsection does not make a surviving spouse eligible for the survivor benefits provided in RCW 43.43.270.

Sec. 4. Section 7, chapter 192, Laws of 1987 and RCW 41.54.070 are each amended to read as follows:

The benefit granted by this chapter shall not result in a total benefit less than would have been received absent such benefit. The total sum of the retirement allowances received under this chapter shall not exceed the smallest an ount the dual member would receive if all the service had been rendered in any one system. When calculating the maximum benefit a dual member would receive: (1) Military service granted under RCW 41.40.170(3) or 43.43.260 shall be based only on service accrued under chapter 41.40 or 43.43 RCW, respectively; and (2) the calculation shall be made assuming that the dual member did not defer any allowances pursuant to RCW 41.54.030(3). When a dual member's combined retirement allowances would exceed the limitation imposed by this section, the allowances shall be reduced by the systems on a proportional basis, according to service.

Sec. 5. Section 1, chapter 105, Laws of 1975-'76 2nd ex. sess. as last amended by section 9, chapter 192, Laws of 1987 and RCW 41.04.270 are each amended to read as follows:

(1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after March 19, 1976,

any member or former member who (a) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to ((~~(a)~~)) any retirement system except those listed in RCW 41.50.030 ((~~and chapter 41.28 RCW, or (b)~~)) and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010.

NEW SECTION. Sec. 6. A new section is added to chapter 41.54 RCW to read as follows:

(1) The systems may pay a dual member a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.54.030 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from the system making the lump sum payment.

NEW SECTION. Sec. 7. This act shall take effect July 1, 1988.

Passed the House February 15, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 196

[House Bill No. 1833]

MAYORS AND MAYORS PRO TEMPORE

AN ACT Relating to town officials; and amending RCW 35.27.160.

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

Sec. 1. Section 35.27.160, chapter 7, Laws of 1965 and RCW 35.27-.160 are each amended to read as follows:

The mayor shall preside over all meetings of the council at which he or she is present. ((~~In his absence,~~)) A mayor pro tempore may be chosen by

the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor. The mayor ((~~and in his absence a mayor pro tempore to be chosen by the council~~)) shall sign all warrants drawn on the treasurer and shall sign all written contracts entered into by the town. The mayor ((~~and mayor pro tempore~~)) may administer oaths and affirmations, and take affidavits and certify them. The mayor ((~~or mayor pro tempore~~)) shall sign all conveyances made by the town and all instruments which require the seal of the town.

((~~The authority of the mayor pro tempore shall continue only during the day on which he is chosen.~~))

The mayor is authorized to acknowledge the execution of all instruments executed by the town which require acknowledgment.

Passed the House February 15, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 197

[Senate Bill No. 6260]

POISONS—PROCEDURE FOR DELIVERY TO PURCHASER OUTSIDE OF SELLER'S PREMISES

AN ACT Relating to registration of poisons; and amending RCW 69.38.030.

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

Sec. 1. Section 3, chapter 34, Laws of 1987 and RCW 69.38.030 are each amended to read as follows:

It is unlawful for any person, either on the person's own behalf or while an employee of another, to sell any poison without first recording in ink in a "poison register" kept solely for this purpose the following information:

(1) The date and hour of the sale;

(2) The full name and home address of the purchaser;

(3) The kind and quantity of poison sold; and

(4) The purpose for which the poison is being purchased.

The purchaser shall present to the seller identification which contains the purchaser's photograph and signature. No sale may be made unless the seller is satisfied that the purchaser's representations are true and that the poison will be used for a lawful purpose. Both the purchaser and the seller shall sign the poison register entry.

If a delivery of a poison will be made outside the confines of the seller's premises, the seller may require the business purchasing the poison to submit a letter of authorization as a substitute for the purchaser's photograph and signature requirements. The letter of authorization shall include the unified business identifier and address of the business, a full description of

how the substance will be used, and the signature of the purchaser. Either the seller or the employee of the seller delivering or transferring the poison shall affix his or her signature to the letter as a witness to the signature and identification of the purchaser. The transaction shall be recorded in the poison register as provided in this section. Letters of authorization shall be kept with the poison register and shall be subject to the inspection and preservation requirements contained in RCW 69.38.040.

Passed the Senate March 7, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 198

[Substitute Senate Bill No. 6530]

EXPLOSIVES

AN ACT Relating to procedures for explosives licensing; amending RCW 70.74.030, 70-.74.061, 70.74.110, 70.74.120, 70.74.130, 70.74.135, 70.74.137, 70.74.140, and 70.74.142; adding new sections to chapter 70.74 RCW; and repealing RCW 70.74.220 and 70.74.290.

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

Sec. 1. Section 5, chapter 111, Laws of 1931 as last amended by section 7, chapter 88, Laws of 1972 ex. sess. and RCW 70.74.030 are each amended to read as follows:

All explosive manufacturing buildings and magazines in which explosives or blasting agents except small arms ammunition and smokeless powder are had, kept, or stored, must be located at distances from inhabited buildings, railroads, highways, and public utility transmission systems in conformity with the ((~~following quantity and distance tables, and these tables shall be the basis on which applications for license for storage shall be made and license for storage issued, as provided in RCW 70.74.110 and 70.74.120. All distances prescribed in the following quantity and distance tables are unbarricaded, and, if there is an efficient artificial barricade or a natural barricade between the explosives manufacturing building or magazine and another explosives manufacturing building or magazine, building, railroad, highway, or public utility transmission system, the distance prescribed in the following quantity and distance tables may be reduced by one=half. Blasting and electric blasting caps in strength through No. 8 must be rated as one and one=half pounds of explosives per one thousand caps. Blasting and electric blasting caps of strength higher than No. 8 must be computed on the combined weight of explosives.~~

~~The quantity and distance table governing the manufacture, keeping and storage of explosives to be as follows:~~

QUANTITY AND DISTANCE TABLE

Column 1 Quantity that may be had, kept or stored		Column 2 Distance from Nearest Inhabited Building	Column 3 Distance From Nearest Railroad	Column 4 Distance from Nearest Highway and Public Utility Transmission System
EXPLOSIVES				
Pounds Over	Pounds Not Over	Feet	Feet	Feet
2	5	140	60	60
5	10	180	70	70
10	20	220	90	90
20	30	250	100	100
30	40	280	110	110
40	50	300	120	120
50	75	340	140	140
75	100	380	150	150
100	125	400	160	160
125	150	430	170	170
150	200	470	190	190
200	250	510	210	210
250	300	540	220	220
300	400	590	240	240
400	500	640	260	260
500	600	680	270	270
600	700	710	290	290
700	800	750	300	300
800	900	780	310	310
900	1,000	800	320	320
1,000	1,200	850	340	330
1,200	1,400	900	360	340
1,400	1,600	940	380	350
1,600	1,800	980	390	360
1,800	2,000	1,010	410	370
2,000	2,500	1,090	440	380
2,500	3,000	1,160	470	390
3,000	4,000	1,270	510	420
4,000	5,000	1,370	550	450
5,000	6,000	1,460	590	470
6,000	7,000	1,540	620	490
7,000	8,000	1,600	640	500
8,000	9,000	1,670	670	510
9,000	10,000	1,730	690	520
10,000	12,000	1,750	740	540
12,000	14,000	1,770	780	550
14,000	16,000	1,800	810	560
16,000	18,000	1,880	840	570
18,000	20,000	1,950	870	580
20,000	25,000	2,110	940	630
25,000	30,000	2,260	1,000	680
30,000	35,000	2,410	1,050	720
35,000	40,000	2,550	1,100	760
40,000	45,000	2,680	1,140	800
45,000	50,000	2,800	1,180	840
50,000	55,000	2,920	1,220	880

~~55,000 60,000 3,030 1,260 910~~
~~60,000 65,000 3,130 1,290 940~~
~~65,000 70,000 3,220 1,320 970~~
~~70,000 75,000 3,310 1,350 1,000~~
~~75,000 80,000 3,390 1,380 1,020~~
~~80,000 85,000 3,460 1,410 1,040~~
~~85,000 90,000 3,520 1,440 1,060~~
~~90,000 95,000 3,580 1,460 1,080~~
~~95,000 100,000 3,630 1,490 1,090~~
~~100,000 110,000 3,670 1,540 1,100~~
~~110,000 120,000 3,710 1,580 1,110~~
~~120,000 130,000 3,750 1,620 1,120~~
~~130,000 140,000 3,780 1,670 1,130~~
~~140,000 150,000 3,800 1,700 1,140~~
~~150,000 160,000 3,870 1,740 1,160~~
~~160,000 170,000 3,930 1,780 1,180~~
~~170,000 180,000 3,980 1,810 1,200~~
~~180,000 190,000 4,020 1,840 1,210~~
~~190,000 200,000 4,060 1,870 1,220~~
~~200,000 210,000 4,110 1,910 1,240~~
~~210,000 230,000 4,200 1,960 1,270~~
~~230,000 250,000 4,310 2,020 1,300~~
~~250,000 275,000 4,430 2,080 1,340~~
~~275,000 300,000 4,550 2,150 1,380~~))

quantity and distance tables adopted by the department of labor and industries by rule. The department of labor and industries shall adopt the quantity and distance tables promulgated by the federal bureau of alcohol, tobacco, and firearms unless the department determines the tables to be inappropriate. The tables shall be the basis on which applications for storage license are made and storage licenses issued as provided in RCW 70.74.110 and 70.74.120.

Sec. 2. Section 11, chapter 137, Laws of 1969 ex. sess. and RCW 70-.74.061 are each amended to read as follows:

Magazines containing blasting caps and electric blasting caps shall be separated from other magazines containing like contents, or from magazines containing explosives by distances ((~~based on the following:~~

~~(1) Blasting caps in strengths through No. 8 should be rated at one and one-half pounds of explosive per one thousand caps;~~

~~(2) For strengths higher than No. 8, use the total combined weight of explosives;~~

~~(3) Magazines in which explosives are kept and stored shall be detached from other structures and separated from other magazines in conformity with the quantity and distance table set forth below:~~

QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170

85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385))

set in the quantity and distance tables adopted by the department of labor and industries by rule. The department of labor and industries shall adopt the quantity and distance tables promulgated by the federal bureau of alcohol, tobacco, and firearms unless the department determines the tables to be inappropriate. The tables shall be the basis on which applications for storage license are made and storage licenses issued as provided in RCW 70-.74.110 and 70.74.120.

NEW SECTION. Sec. 3. A new section is added to chapter 70.74 RCW to read as follows:

(1) The director of labor and industries shall require, as a condition precedent to the original issuance or renewal of any explosive license, fingerprinting and criminal history record information checks of every applicant. In the case of a corporation, fingerprinting and criminal history record information checks shall be required for the management officials directly responsible for the operations where explosives are used if such persons have not previously had their fingerprints recorded with the department of labor and industries. In the case of a partnership, fingerprinting and criminal history record information checks shall required of all general partners. Such fingerprints as are required by the department of labor and industries shall be submitted on forms provided by the department to the identification section of the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior convictions of the individuals fingerprinted. The Washington state patrol shall provide to the director of labor and industries such criminal record information as the director may request. The applicant shall give full cooperation to the department of labor and industries and shall assist the department of labor and industries in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a fee not to exceed twenty dollars to the agency that performs the fingerprinting and criminal history process.

(2) The director of labor and industries shall not issue a license to manufacture, purchase, store, use, or deal with explosives to:

(a) Any person under twenty-one years of age;

(b) Any person whose license is suspended or whose license has been revoked, except as provided in section 4 of this act;

(c) Any person who has been convicted in this state or elsewhere of a violent offense as defined in RCW 9.94A.030, perjury, false swearing, or bomb threats or a crime involving a schedule I or II controlled substance, or any other drug or alcohol related offense, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency. However, the director of labor and industries may issue a license if the person suffering a drug or alcohol related dependency is participating in or has completed an alcohol or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The director of labor and industries shall require the applicant to provide proof of such participation and control; or

(d) Any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease and who has not at the time of application been restored to competency.

(3) The director of labor and industries may establish reasonable licensing fees for the manufacture, dealing, purchase, use, and storage of explosives.

NEW SECTION. Sec. 4. A new section is added to chapter 70.74 RCW to read as follows:

(1) The department of labor and industries shall revoke and not renew the license of any person holding a manufacturer, dealer, purchaser, user, or storage license upon conviction of any of the following offenses, which conviction has become final:

(a) A violent offense as defined in RCW 9.94A.030;

(b) A crime involving perjury or false swearing, including the making of a false affidavit or statement under oath to the department of labor and industries in an application or report made pursuant to this title;

(c) A crime involving bomb threats;

(d) A crime involving a schedule I or II controlled substance, or any other drug or alcohol related offense, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency. However, the department of labor and industries may condition renewal of the license to any convicted person suffering a drug or alcohol dependency who is participating in an alcoholism or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The department of labor and industries shall require the licensee to provide proof of such participation and control;

(e) A crime relating to possession, use, transfer, or sale of explosives under this chapter or any other chapter of the Revised Code of Washington.

(2) The department of labor and industries shall revoke the license of any person adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease. The director shall not renew the license until the person has been restored to competency.

(3) The department of labor and industries is authorized to suspend, for a period of time not to exceed six months, the license of any person who has violated this chapter or the rules promulgated pursuant to this chapter.

(4) The department of labor and industries may revoke the license of any person who has repeatedly violated this chapter or the rules promulgated pursuant to this chapter, or who has twice had his or her license suspended under this chapter.

(5) Upon receipt of notification by the department of labor and industries of revocation or suspension, a licensee must surrender immediately to the department any or all such licenses revoked or suspended.

Sec. 5. Section 11, chapter 111, Laws of 1931 as last amended by section 13, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.110 are each amended to read as follows:

All persons engaged in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device, on the date when this 1969 amendatory act takes effect, shall within sixty days thereafter, and all persons engaging in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device after this act takes effect shall, before so engaging, make an application in writing, subscribed to by such person or his agent, to the department of labor and industries, the application stating:

(1) Location of place of manufacture or processing;

(2) Kind of explosives manufactured, processed or used;

(3) The distance that such explosives manufacturing building is located or intended to be located from the other factory buildings, magazines, inhabited buildings, railroads and highways and public utility transmission systems;

(4) The name and address of the applicant;

(5) The reason for desiring to manufacture explosives;

(6) The applicant's citizenship, if the applicant is an individual;

(7) If the applicant is a partnership, the names and addresses of the partners, and their citizenship;

(8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship; and

(9) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

There shall be kept in the main office on the premises of each explosives manufacturing plant a plan of said plant showing the location of all explosives manufacturing buildings and the distance they are located from

other factory buildings where persons are employed and from magazines, and these plans shall at all times be open to inspection by duly authorized inspectors of the department of labor and industries. The superintendent of each plant shall upon demand of said inspector furnish the following information:

(a) The maximum amount and kind of explosive material which is or will be present in each building at one time.

(b) The nature and kind of work carried on in each building and whether or not said buildings are surrounded by natural or artificial barricades.

The department of labor and industries shall as soon as ((~~may be~~)) possible after receiving such application cause an inspection to be made of the explosives manufacturing plant, and if found to be in accordance with RCW 70.74.030 and 70.74.050 and RCW 70.74.061, such department shall issue a license to the person applying therefor showing compliance with the provisions of this chapter((~~, unless~~)) if the ((~~department shall find~~)) applicant demonstrates that either the applicant or the officers, agents or employees of the applicant are ((~~not~~)) sufficiently experienced in the manufacture of explosives((~~, have been convicted of a crime involving moral turpitude, or are disloyal to the United States~~)) and the applicant meets the qualifications for a license under section 3 of this 1988 act. Such license shall continue in full force and effect until ((~~surrendered or canceled, because of failure to comply with any of the conditions necessary for the granting of a license~~)) expired, suspended, or revoked by the department pursuant to this chapter.

Sec. 6. Section 12, chapter 111, Laws of 1931 as last amended by section 14, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.120 are each amended to read as follows:

All persons engaged in keeping or storing and all persons having in their possession explosives on the date when this 1969 amendatory act takes effect shall within sixty days thereafter, and all persons engaging in keeping or storing explosives or coming into possession thereof after this act takes effect, shall before engaging in the keeping or storing of explosives or taking possession thereof, make an application in writing subscribed to by such person or his agent, to the department of labor and industries stating:

(1) The location of the magazine, if any, if then existing, or in case of a new magazine, the proposed location of such magazine;

(2) The kind of explosives that are kept or stored or possessed or intended to be kept or stored or possessed and the maximum quantity that is intended to be kept or stored or possessed thereat;

(3) The distance that such magazine is located or intended to be located from other magazines, inhabited buildings, explosives manufacturing buildings, railroads, highways and public utility transmission systems;

(4) The name and address of the applicant;

(5) The reason for desiring to store or possess explosives;

(6) The citizenship of the applicant if the applicant is an individual;

(7) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship;

(9) And such other pertinent information as the director of the department of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall, as soon as may be after receiving such application, cause an inspection to be made of the magazine, if then constructed, and, in the case of a new magazine, as soon as may be after same is found to be constructed in accordance with the specification provided in RCW 70.74.025, such department shall determine the amount of explosives that may be kept and stored in such magazine by reference to the quantity and distance tables ((~~set forth in RCW 70.74.030, 70.74.050 and 70.74.061;~~)) specified in or adopted under this chapter and shall issue a license to the person applying therefor((~~; unless the department shall find that such applicant is not sufficiently experienced in the handling of explosives, lacks suitable facilities therefor, has been convicted of a crime involving moral turpitude, or is disloyal to the United States~~)) if the applicant demonstrates that either the applicant or the officers, agents, or employees of the applicant are sufficiently experienced in the handling of explosives and possess suitable storage facilities therefor, and that the applicant meets the qualifications for a license under section 3 of this 1988 act. Said license shall set forth the maximum quantity of explosives that may be had, kept or stored by said person. Such license shall be valid until canceled for one or more of the causes hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the license therefor, such as:

(a) The erection of buildings nearer said magazine;

(b) The construction of railroads nearer said magazine;

(c) The opening for public travel of highways nearer said magazine; or

(d) The construction of public utilities transmission systems near said magazine; then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to conform to such changed conditions in accordance with the quantity and distance table notwithstanding the license, and the department of labor and industries shall modify or cancel such license in accordance with the changed conditions. ((~~Said license may also be canceled if the department of labor and industries shall find that the applicant is keeping explosives for an unlawful purpose or is disloyal to the United States.~~)) Whenever any person to whom a license has been issued, keeps or stores in the magazine or has in his possession, any quantity of explosives in excess of the maximum amount set forth in said

license, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the department is authorized to cancel such license. Whenever a license is canceled by the department for any cause herein specified, the department shall notify the person to whom such license is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice, or, if the cause of cancellation be the failure to pay the annual license fee, or the fact that explosives are kept for an unlawful purpose, ((~~or the applicant is disloyal to the United States,~~)) the department of labor and industries shall order such person to dispossess himself of said explosives within ten days from the giving of said notice. Failure to remove the explosives stored in said magazine or to dispossess oneself of the explosives as herein provided within the time specified in said notice shall constitute a violation of this chapter.

Sec. 7. Section 3, chapter 101, Laws of 1941 as amended by section 16, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.130 are each amended to read as follows:

Every person desiring to engage in the business of dealing in explosives shall apply to the department of labor and industries for a license therefor. Said application shall state, among other things:

(1) The name and address of applicant;

(2) The reason for desiring to engage in the business of dealing in explosives;

(3) Citizenship, if an individual applicant;

(4) If a partnership, the names and addresses of the partners and their citizenship;

(5) If an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and

(6) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall issue the license ((~~applied for unless the department finds that either the applicant or any of the officers, agents or employees of the applicant are not sufficiently experienced in the business of dealing in explosives, lack suitable facilities therefor, have been convicted of a crime involving moral turpitude, or are disloyal to the United States. Said license may be canceled for any cause that would prevent the initial issuance thereof~~)) if the applicant demonstrates that either the applicant or the principal officers, agents, or employees of the applicant are experienced in the business of dealing in explosives, possess suitable facilities therefor, have not been convicted of any crime that would warrant revocation or nonrenewal of a license under this chapter, and have never had an explosives-related license revoked under this chapter or under similar provisions of any other state.

Sec. 8. Section 18, chapter 137, Laws of 1969 ex. sess. as last amended by section 7, chapter 302, Laws of 1971 ex. sess. and RCW 70.74.135 are each amended to read as follows:

All persons desiring to purchase explosives except handloader components shall apply to the department of labor and industries for a license. Said application shall state, among other things:

(1) The location where explosives are to be used;

(2) The kind and amount of explosives to be used;

(3) The name and address of the applicant;

(4) The reason for desiring to use explosives;

(5) The citizenship of the applicant if the applicant is an individual;

(6) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(7) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and

(8) Such other pertinent information as the director of the department of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall issue the license ((~~applied for unless~~)) if the ((~~department finds~~)) applicant demonstrates that either the applicant or ((~~any of~~)) the officers, agents or employees of the applicant are ((~~not~~)) sufficiently experienced in the use of explosives((~~, lack suitable facilities therefor, have been convicted of a felony involving force or violence, or are disloyal to the United States. Said license may be canceled for any cause that would prevent the initial issuance thereof, or for any violation of this chapter~~)) to authorize a purchase license. However, no purchaser's license may be issued to any person who cannot document proof of possession or right to use approved and licensed storage facilities unless the person signs a statement certifying that explosives will not be stored.

NEW SECTION. Sec. 9. A new section is added to chapter 70.74 RCW to read as follows:

With the exception of storage licenses for permanent facilities, every license issued under the authority of this chapter shall expire after one year from the date issued unless suspended or revoked. The director of labor and industries may extend the duration of storage licenses for permanent facilities to two years provided the location, distances, and use of the facilities remain unchanged. The fee for the two-year storage license shall be twice the annual fee.

NEW SECTION. Sec. 10. A new section is added to chapter 70.74 RCW to read as follows:

(1) It is unlawful for any person to manufacture, purchase, sell, use, or store any explosive without having a validly issued license from the department of labor and industries, which license has not been revoked or suspended. Violation of this section is a gross misdemeanor.

(2) Upon notice from the department of labor and industries or any law enforcement agency having jurisdiction, a person manufacturing, purchasing, selling, using, or storing any explosive without a license shall immediately surrender any and all such explosives to the department or to the respective law enforcement agency.

(3) At any time that the director of labor and industries requests the surrender of explosives from any person pursuant to subsection (2) of this section, the director may in addition request the attorney general to make application to the superior court of the county in which the unlawful practice exists for a temporary restraining order or such other relief as appears to be appropriate under the circumstances.

NEW SECTION. Sec. 11. A new section is added to chapter 70.74 RCW to read as follows:

Unless specifically provided otherwise by statute, this chapter and the rules adopted thereunder shall be implemented and enforced, including penalties, violations, citations, appeals, and other administrative procedures, pursuant to the Washington industrial safety and health act, chapter 49.17 RCW.

Sec. 12. Section 2, chapter 88, Laws of 1972 ex. sess. and RCW 70-.74.137 are each amended to read as follows:

Every person applying for a purchaser's license, or renewal thereof, shall pay an annual license fee of ((~~two~~)) five dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed fifteen dollars.

Said license fee shall accompany the application((~~;~~)) and shall be transmitted by the department ((~~turned over~~)) to the state treasurer: PROVIDED, That if the applicant is denied a purchaser's license the license fee shall be returned to said applicant by registered mail.

Sec. 13. Section 13, chapter 111, Laws of 1931 as amended by section 15, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.140 are each amended to read as follows:

Every person engaging in the business of keeping or storing of explosives((~~;~~)) shall pay an annual license fee for each magazine maintained, to be graduated by the department of labor and industries according to the quantity kept or stored therein, of ((~~not less than one dollar nor more than fifty~~)) ten dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed one hundred dollars.

Said license fee shall accompany the application((~~;~~)) and shall be transmitted by the department ((~~turned over~~)) to the state treasurer.

Sec. 14. Section 1, chapter 88, Laws of 1972 ex. sess. and RCW 70-.74.142 are each amended to read as follows:

Every person applying for a user's license, or renewal thereof, under this chapter shall pay an annual license fee of ((~~three~~)) five dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed fifteen dollars.

Said license fee shall accompany the application, and be turned over by the department to the state treasurer: PROVIDED, That if the applicant is denied a user's license the license fee shall be returned to said applicant by registered mail.

NEW SECTION. Sec. 15. A new section is added to chapter 70.74 RCW to read as follows:

Every person engaged in the business of manufacturing explosives shall pay an annual license fee of twenty-five dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed fifty dollars.

Businesses licensed to manufacture explosives are not required to have a dealers license, but must comply with all of the dealer requirements of this chapter when they sell explosives.

The license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

NEW SECTION. Sec. 16. A new section is added to chapter 70.74 RCW to read as follows:

Every person engaged in the business of selling explosives shall pay an annual license fee of twenty-five dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed fifty dollars.

Businesses licensed to sell explosives must comply with all of the dealer requirements of this chapter.

The license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) Section 17, chapter 111, Laws of 1931, section 7, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.220; and

(2) Section 252, chapter 249, Laws of 1909, section 25, chapter 137, Laws of 1969 ex. sess. and RCW 70.74.290.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 199

[Substitute House Bill No. 657]
POLITICAL ADVERTISING

AN ACT Relating to political advertising; amending RCW 42.17.530; and adding a new section to chapter 42.17 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 42.17 RCW to read as follows:

The definitions set forth in this section apply throughout RCW 42.17-.510 through 42.17.540.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Sponsor" means the candidate, political committee, or person paying for the advertisement. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(3) "Incumbent" means a person who is in present possession of an elected office.

Sec. 2. Section 3, chapter 216, Laws of 1984 and RCW 42.17.530 are each amended to read as follows:

((~~A person shall not sponsor political advertising which contains information that the person knows, or should reasonably be expected to know, to be false. No political advertising may falsely represent that a candidate is an incumbent for the office sought. A person or candidate shall not make, either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization.~~)) (1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising that contains a false statement of material fact;

(b) Political advertising that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence.

Passed the House January 18, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 200

[Engrossed Substitute House Bill No. 1295]

LIQUOR LICENSES

AN ACT Relating to fees for liquor licenses; amending RCW 66.24.010, 66.24.380, and 66.24.500; and adding a new section to chapter 66.24 RCW.

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

Sec. 1. Section 27, chapter 62, Laws of 1933 ex. sess. as last amended by section 1, chapter 217, Laws of 1987 and RCW 66.24.010 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license, the liquor control board may consider any prior criminal conduct of the applicant and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The board may, in its discretion, grant or refuse the license applied for. No retail license of any kind may be issued to:

(a) A person who has not resided in the state for at least one month prior to making application, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be. The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.04.105, as now or hereafter amended. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension((~~, with a memorandum of the suspension written or stamped upon the face thereof in red ink~~)). The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5) (a) At the time of the original issuance of a class H license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required. (b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.04 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by the regulations in force from time to time. All conditions and restrictions imposed by the board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

(7) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(8) Before the board shall issue a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application be for a license within an incorporated city

or town, or to the county legislative authority, if the application be for a license outside the boundaries of incorporated cities or towns; and such incorporated city or town, through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a formal hearing subject to the applicable provisions of Title 34 RCW, as now or hereafter amended. Upon the granting of a license under this title the board shall send a duplicate of the license or written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(9) Before the board issues any license to any applicant, it shall give (a) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (b) written notice by certified mail of the application to churches, schools, and public institutions within five hundred feet of the premises to be licensed. The board shall issue no beer retailer license class A, B, D, or E or wine retailer license class C or F or class H license covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the outer property line of the school grounds to the nearest public entrance of the premises proposed for license, and if, after receipt by the school or public institution of the notice as provided in this subsection, the board receives written notice, within twenty days after posting such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies. It is the intent under this subsection that a retail license shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private

schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board shall fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in the preceding subsection shall not prohibit the board from authorizing the transfer of existing licenses now located within the restricted area to other persons or locations within the restricted area: PROVIDED, Such transfer shall in no case result in establishing the licensed premises closer to a church or school than it was before the transfer.

(11) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or wholesaler license to a transferee of a retail or wholesaler license to continue the operation of the retail or wholesaler premises during the period a transfer application for the license from person to person at the same premises is pending and when the following conditions exist:

(a) The licensed premises has been operated under a retail or wholesaler license within ninety days of the date of filing the application for a temporary license;

(b) The retail or wholesaler license for the premises has been surrendered pursuant to issuance of a temporary operating license;

(c) The applicant for the temporary license has filed with the board an application for transfer of the retail or wholesaler license at such premises to himself or herself; and

(d) The application for a temporary license is accompanied by a temporary license fee established by the board by rule.

A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for an additional sixty-day period upon payment of an additional fee and upon compliance with all conditions required in this section.

Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 and chapter 34.04 RCW shall apply to temporary licenses.

Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

Sec. 2. Section 23-S added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 43, chapter

5, Laws of 1981 1st ex. sess. and RCW 66.24.380 are each amended to read as follows:

There shall be a beer retailer's license to be designated as class G; a special license to a society or organization to sell beer at picnics or other special occasions at a specified date and place; fee ((~~twenty~~)) thirty-five dollars per day. Sale, service, and consumption of beer is to be confined to specified premises or designated areas only.

Sec. 3. Section 6, chapter 85, Laws of 1982 and RCW 66.24.500 are each amended to read as follows:

There shall be a wine retailer's license to be designated as class J; a special license to a society or organization to sell wine at special occasions at a specified date and place; fee ((~~twenty~~)) thirty-five dollars per day. Sale, service, and consumption of wine is to be confined to specified premises or designated areas only: PROVIDED, That a holder of a class J license shall be permitted to sell at no more than two licensed events each year to members and guests in attendance at the special occasion limited quantities of wine in unopened bottles and original packages, not to be consumed on the premises where sold, by paying an additional fee of ten dollars per day. The board shall adopt appropriate regulations pursuant to chapter 34.04 RCW for the purpose of carrying out the provisions of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 66.24 RCW to read as follows:

An application for a new annual retail license under this title shall be accompanied by payment of a nonrefundable seventy-five dollar fee to cover expenses incurred in processing the application. If the application is approved, the application fee shall be applied toward the fee charged for the license.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 201

[Engrossed House Bill No. 1588]

DEPENDENCY—NOTICE TO NATURAL OR LEGAL GUARDIAN—PETITION MAY BE FILED BY ANY PARTY TO PROCEEDING

AN ACT Relating to dependency proceedings; and amending RCW 13.34.080 and 13.34.180.

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

Sec. 1. Section 7, chapter 160, Laws of 1913 as last amended by section 41, chapter 155, Laws of 1979 and RCW 13.34.080 are each amended to read as follows:

In a dependency case where it appears by the petition or verified statement, that the person standing in the position of natural or legal guardian of the person of any child, is a nonresident of this state, or that the name or place of residence or whereabouts of such person is unknown, as well as in all cases where, after due diligence, the officer has been unable to make service of the summons or notice provided for in RCW 13.34.070, and a copy of the notice has been deposited in the post office, postage prepaid, directed to such person at his last known place of residence, the court shall direct the clerk to publish notice in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, with the first publication of the notice to be at least twenty-five days prior to the date fixed for the hearing. Additionally, publication may proceed simultaneously with efforts to provide personal service or service by mail for good cause shown, when there is reason to believe that personal service or service by mail will not be successful. Such notice shall be directed to the parent, parents, or other person claiming the right to the custody of the child, if their names are known, or if unknown, the phrase "To whom it may concern" shall be used and apply to, and be binding upon, any such persons whose names are unknown. The name of the court, the name of the child (or children if of one family), the date of the filing of the petition, the date of hearing, and the object of the proceeding in general terms shall be set forth, and the whole shall be subscribed by the clerk. There shall be filed with the clerk an affidavit showing due publication of the notice, and the cost of publication shall be paid by the county at not to exceed the rate paid by the county for other legal notices. The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated as provided in this section.

Sec. 2. Section 46, chapter 291, Laws of 1977 ex. sess. as last amended by section 6, chapter 524, Laws of 1987 and RCW 13.34.180 are each amended to read as follows:

A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040 and shall allege:

(1) That the child has been found to be a dependent child under RCW 13.34.030(2); and

(2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and

(3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(2); and

(4) That the services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home;

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 202

[Senate Bill No. 5016]

APPELLATE PROCEDURE

AN ACT Relating to modifications of terminology resulting from the Rules of Appellate Procedure; amending RCW 2.24.050, 4.32.250, 4.92.030, 7.16.350, 7.20.140, 8.04.070, 8.04.130, 8.04.150, 8.08.080, 8.12.200, 8.12.530, 8.16.130, 8.20.100, 8.20.120, 9.95.060, 10.77.230, 10.95.150, 11.52.016, 11.96.160, 11.110.110, 17.04.230, 17.16.110, 19.77.100, 20.01.200, 24.32.360, 28A.58.500, 28B.16.160, 29.79.170, 29.79.210, 29.82.160, 31.08.260, 33.04.060, 33.08.070, 33.40.120, 34.04.140, 35.44.260, 35.44.270, 35.55.080, 35.56.090, 36.93.160, 36.94.290, 41.64.140, 43.21B.190, 43.52.430, 47.32.060, 48.31.190, 49.60.260, 50.32.160, 51.52.110, 52.22.101, 54.16.160, 54.16.165, 57.16.090, 58.28.490, 59.12.200, 65.12.175, 72.33.240, 74.08.080, 79.01.500, 80.04.190, 80.04.260, 80.50.140, 81.04.190, 81.04.260, 81.53.130, 81.53.170, 82.32.180, 84.28.080, 84.28.110, 84.64.120, 84.64.400, 85.05.079, 85.05.470, 85.06.630, 85.06.660, 85.06.750, 85.08.440, 85.15.130, 85.16.190, 85.16.210, 85.18.140, 85.24.130, 85.24.140, 85.32.200, 87.03.410, 87.03.760, 87.03.765, 87.22.090, 87.56.225, 88.32.090, 90.03.200, 90.03.210, 90.24.070, 91.08.250, and 91.08.580; and repealing RCW 2.04.160, 2.04.170, 4.88.260, and 10.77.130.

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

Sec. 1. Section 3, chapter 124, Laws of 1909 as amended by section 10, chapter 81, Laws of 1971 and RCW 2.24.050 are each amended to read as follows:

All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court

commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, ((~~his~~)) the orders and judgments shall be and become the orders and judgments of the superior court, and ((~~from same an appeal may be taken to the supreme court or the court of appeals in all cases where an appeal will lie from~~)) appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

Sec. 2. Section 24, chapter 127, Laws of 1893 and RCW 4.32.250 are each amended to read as follows:

A notice or other paper is valid and effectual though the title of the action in which it is made is omitted, or it is defective either in respect to the court or parties, if it intelligently refers to such action or proceedings; and in furtherance of justice upon proper terms, any other defect or error in any notice or other paper or proceeding may be amended by the court, and any mischance, omission or defect relieved within one year thereafter; and the court may enlarge or extend the time, for good cause shown, within which by statute any act is to be done, proceeding had or taken, notice or paper filed or served, or may, on such terms as are just, permit the same to be done or supplied after the time therefor has expired((~~, except that the time for bringing a writ of error or appeal shall in no case be enlarged, or a party permitted to bring such writ of error or appeal after the time therefor has expired~~)).

Sec. 3. Section 3, chapter 95, Laws of 1895 as last amended by section 3, chapter 126, Laws of 1986 and RCW 4.92.030 are each amended to read as follows:

The attorney general or 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~~)) Appellate review may be sought as in other actions or proceedings, but in case ((~~an appeal shall be taken on behalf of~~)) review is sought by the state, no bond shall be required of the appellant.

Sec. 4. Section 35, chapter 65, Laws of 1895 as amended by section 30, chapter 81, Laws of 1971 and RCW 7.16.350 are each amended to read as follows:

From a final judgment in the superior court, in any such proceeding, ((~~an appeal shall lie to~~)) appellate review by the supreme court or the court of appeals may be sought as in other actions.

Sec. 5. Section 680, page 171, Laws of 1869 as last amended by section 70, chapter 258, Laws of 1984 and RCW 7.20.140 are each amended to read as follows:

Either party to a judgment in a proceeding for a contempt, may ((~~appeal therefrom~~)) seek appellate review of the judgment in like manner and with like effect as from judgment in an action, but such ((~~appeal~~)) review

shall not have the effect to stay the proceedings in any other action, suit or proceeding, or upon any judgment, decree or order therein, concerning which, or wherein such contempt was committed.

Sec. 6. Section 2, chapter 213, Laws of 1955 as amended by section 33, chapter 81, Laws of 1971 and RCW 8.04.070 are each amended to read as follows:

At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the lands, real estate, premises or other property described in the petition have been duly served with the notice, and is further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property are sought to be appropriated is really necessary for the public use of the state, it shall make and enter an order, to be recorded in the minutes of the court, and which order shall be final unless appellate review thereof ((~~to the supreme court or the court of appeals of the state~~)) is ((~~taken~~)) sought within five days after entry thereof, adjudicating that the contemplated use for which the lands, real estate, premises or other property are sought to be appropriated is really a public use of the state.

Sec. 7. Section 7, chapter 74, Laws of 1891 as last amended by section 35, chapter 81, Laws of 1971 and RCW 8.04.130 are each amended to read as follows:

Upon the entry of judgment upon the verdict of the jury or the decision of the court awarding damages, the state may make payment of the damages and the costs of the proceedings by depositing them with the clerk of the court, to be paid out under the direction of the court or judge thereof; and upon making such payment into court of the damages assessed and allowed for any land, real estate, premises, or other property mentioned in the petition, and of the costs, the state shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or party interested recovers a greater amount of damages; and in that case the state shall be liable only for the amount in excess of the sum paid into court and the costs of appeal.

In the event ((~~of an appeal to the supreme court or the court of appeals of the state~~)) appellate review is sought by any party to the proceedings, the moneys paid into the superior court by the state pursuant to this section shall remain in the custody of the court until the final determination of the proceedings by the supreme court or the court of appeals.

Sec. 8. Section 9, chapter 74, Laws of 1891 as amended by section 36, chapter 81, Laws of 1971 and RCW 8.04.150 are each amended to read as follows:

Either party may ((~~appeal from~~)) seek appellate review of the judgment for damages entered in the superior court((~~, to the supreme court or~~

~~the court of appeals of the state;~~)) within thirty days after the entry of judgment as aforesaid, and such ((~~appeal~~)) review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the ((~~appeal~~)) review. PROVIDED HOWEVER, That upon such ((~~appeal~~)) review no bond shall be required: AND PROVIDED FURTHER, That if the owner of land, the real estate or premises accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively ((~~an appeal to the supreme court or the court of appeals~~)) appellate review, and final judgment by default may be rendered in the superior court as in other cases: PROVIDED FURTHER, That no ((~~appeal~~)) review shall operate so as to prevent the said state of Washington from taking possession of such property pending ((~~such appeal~~)) review after the amount of said award shall have been paid into court.

Sec. 9. Section 8, chapter 79, Laws of 1949 as amended by section 38, chapter 81, Laws of 1971 and RCW 8.08.080 are each amended to read as follows:

Either party may ((~~appeal from~~)) seek appellate review of the judgment for compensation of the damages awarded in the superior court ((~~to the supreme court or the court of appeals~~)) within thirty days after the entry of judgment as aforesaid, and such ((~~appeal~~)) review shall bring before the supreme court or the court of appeals the propriety and justice of the amount of damage in respect to the parties to the ((~~appeal~~)) review: PROVIDED, That upon such ((~~appeal~~)) review no bonds shall be required: AND PROVIDED FURTHER, That if the owner of land, real estate, or premises accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively ((~~an appeal to the supreme court or the court of appeals~~)) appellate review, and final judgment by default may be rendered in the superior court as in other cases.

Sec. 10. Section 16, chapter 84, Laws of 1893 as last amended by section 39, chapter 81, Laws of 1971 and RCW 8.12.200 are each amended to read as follows:

Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases, provided that in case any defendant recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive as to the damages caused by such improvement unless ((~~appealed from~~)) appellate review is sought, and ((~~no appeal from~~)) review of the same shall delay proceedings under said ordinance, if such city shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and

costs, and such city, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties ((~~so appealing in~~)) seeking review of said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of ((~~an appeal to~~)) review by the supreme court or the court of appeals of the state by any party to the proceedings the money so paid into the superior court by such city, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively ((~~an appeal to the supreme court or the court of appeals~~)) appellate review and final judgment may be rendered in the superior court as in other cases.

Sec. 11. Section 49, chapter 153, Laws of 1907 as last amended by section 40, chapter 81, Laws of 1971 and RCW 8.12.530 are each amended to read as follows:

At any time within six months from the date of rendition of the last judgment awarding compensation for any such improvement in the superior court, or if ((~~any appeal be taken~~)) appellate review is sought, then within two months after the final determination of the ((~~appeal~~)) proceeding in the supreme court or the court of appeals, any such city may discontinue the proceedings by ordinance passed for that purpose before making payment or proceeding with the improvement by paying or depositing in court all taxable costs incurred by any parties to the proceedings up to the time of such discontinuance. If any such improvement be discontinued, no new proceedings shall be undertaken therefor until the expiration of one year from the date of such discontinuance.

Sec. 12. Section 13, page 375, Laws of 1909 as amended by section 41, chapter 81, Laws of 1971 and RCW 8.16.130 are each amended to read as follows:

Either party may ((~~appeal from~~)) seek appellate review of the judgment for compensation awarded for the property taken, entered in the superior court, to the supreme court or the court of appeals of the state within sixty days after the entry of the judgment, and such ((~~appeal~~)) review shall bring before the supreme court or the court of appeals the justness of the compensation awarded for the property taken, and any error occurring on the hearing of such matter, prejudicial to the party appealing: PROVIDED, HOWEVER, That if the owner or owners of the land taken accepts the sum awarded by the jury or court, he or they shall be deemed thereby to have waived ((~~their right of appeal to the supreme court or the court of appeals~~)) appellate review.

Sec. 13. Section 7, page 299, Laws of 1890 as amended by section 42, chapter 81, Laws of 1971 and RCW 8.20.100 are each amended to read as follows:

Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the petitioner, or any officer of, or other person duly appointed by said corporation, may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs, to any land, real estate, premises or other property mentioned in said petition, such corporation shall be released and discharged from any and all further liability therefor, unless upon ((~~appeal~~)) appellate review the owner or other person or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court, and the costs of ((~~appeal~~)) appellate review: PROVIDED, That in case of ((~~an appeal to~~)) review by the supreme court or the court of appeals of the state by any party to the proceedings, the money so paid into the superior court by such corporation as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court or the court of appeals.

Sec. 14. Section 9, page 300, Laws of 1890 as amended by section 43, chapter 81, Laws of 1971 and RCW 8.20.120 are each amended to read as follows:

Either party may ((~~appeal from~~)) seek appellate review of the judgment for damages entered in the superior court((~~, to the supreme court or the court of appeals of the state,~~)) within thirty days after the entry of judgment as aforesaid and such ((~~appeal~~)) review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the ((~~appeal~~)) review: PROVIDED, HOWEVER, That no bond shall be required of any person interested in the property sought to be appropriated by such corporation, but in case the corporation appropriating such land, real estate, premises or other property is appellant, it shall give a bond like that prescribed in RCW 8.20.130, to be executed, filed and approved in the same manner: AND PROVIDED FURTHER, That if the owner of the land, real estate, premises or other property accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively ((~~an appeal to the supreme court or the court of appeals~~)) appellate review, and final judgment by default may be rendered in the superior court as in other cases.

Sec. 15. Section 7, chapter 133, Laws of 1955 as last amended by section 36, chapter 136, Laws of 1981 and RCW 9.95.060 are each amended to read as follows:

When a convicted person ((~~appeals from~~)) seeks appellate review of his or her conviction and is at liberty on bond pending the determination of the ((~~appeal~~)) proceeding by the supreme court or the court of appeals, credit on his or her sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified to the department of corrections, the Washington state board of prison terms and paroles, and the prosecuting attorney of the county in which such convicted person was convicted and sentenced, by the sheriff of such county. If such convicted person does not ((~~appeal from his~~)) seek review of the conviction, but is at liberty for a period of time subsequent to the signing of the judgment and sentence, or becomes a fugitive, credit on his sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified as provided in this section. In all other cases, credit on a sentence will begin from the date the judgment and sentence is signed by the court.

Sec. 16. Section 23, chapter 117, Laws of 1973 1st ex. sess. as amended by section 18, chapter 198, Laws of 1974 ex. sess. and RCW 10.77.230 are each amended to read as follows:

Either party may ((~~appeal to the court of appeals~~)) seek appellate review of the judgment of any hearing held pursuant to the provisions of this chapter.

Sec. 17. Section 15, chapter 138, Laws of 1981 and RCW 10.95.150 are each amended to read as follows:

In all cases in which a sentence of death has been imposed, the ((~~appeal~~)) appellate review, if any, and sentence review to or by the supreme court of Washington shall be decided and an opinion on the merits shall be filed within one year of receipt by the clerk of the supreme court of Washington of the verbatim report of proceedings and clerk's papers filed under RCW 10.95.110. If this time requirement is not met, the chief justice of the supreme court of Washington shall state on the record the extraordinary and compelling circumstances causing the delay and the facts supporting such circumstances. A failure to comply with the time requirements of this subsection shall in no way preclude the ultimate execution of a sentence of death.

Sec. 18. Section 11.52.016, chapter 145, Laws of 1965 as amended by section 1, chapter 80, Laws of 1972 ex. sess. and RCW 11.52.016 are each amended to read as follows:

The order of judgment of the court making the award or awards provided for in RCW 11.52.010 through 11.52.024 shall be conclusive and final, except on ((~~appeal~~)) appellate review and except for fraud. The awards

in RCW 11.52.010 through 11.52.024 provided shall be in lieu of all homestead provisions of the law and of exemptions. The said property, when set aside as herein provided, shall be exempt from all claims for the payment of any debt of the deceased or of the surviving spouse existing at the time of death, whether such debt be individual or community. Under RCW 11.52-.010 through 11.52.024, the court shall not award more property than could be awarded under the law in effect at the time of the granting of the award.

Sec. 19. Section 17, chapter 31, Laws of 1985 and RCW 11.96.160 are each amended to read as follows:

Any interested party may ((~~appeal to the supreme court or the court of appeals from~~)) seek appellate review of any final order, judgment, or decree of the court, and such ((~~appeals~~)) review shall be in the manner and way provided by law for appeals in civil actions.

Sec. 20. Section 124, chapter 30, Laws of 1985 and RCW 11.110.110 are each amended to read as follows:

When the attorney general requires the attendance of any person, as provided in RCW 11.110.100, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in the record, and shall be subject to review by the supreme court or the court of appeals ((~~by certiorari or other appropriate proceeding~~)).

Sec. 21. Section 14, chapter 125, Laws of 1929 as amended by section 56, chapter 81, Laws of 1971 and RCW 17.04.230 are each amended to read as follows:

Any interested party may appeal from the decision and order of the board of directors of such district to the superior court of the county in which such district is located, by serving written notice of appeal on the chairman of the board of directors and by filing in the office of the clerk of the superior court a copy of said notice of appeal with proof of service attached, together with a good and sufficient cost bond in the sum of two hundred dollars, said cost bond to run to such district and in all respects to comply with the laws relating to cost bonds required of nonresident plaintiffs in the superior court. Said notice must be served and filed within ten days from the date of the decision and order of such board of directors, and

said bond must be filed within five days after the filing of such notice of appeal. Whenever notice of appeal and the cost bond as herein provided shall have been filed with the clerk of the superior court, the clerk shall notify the board of directors of such district thereof, and such board shall forthwith certify to said court all notices and records in said matters, together with proof of service, and a true copy of the order and decision pertaining thereto made by such board. If no appeal be perfected within ten days from the decision and order of such board, the same shall be deemed confirmed and the board shall certify the amount of such charges to the county treasurer who shall enter the same on the tax rolls against the land. When an appeal is perfected the matter shall be heard in the superior court de novo and the court's decision shall be conclusive on all persons served under this chapter: PROVIDED, That ((~~an appeal may be taken to the supreme court or the court of appeals from~~)) appellate review of the order or decision of the superior court in the manner provided by existing laws, and upon the conclusion of such ((~~appeal~~)) review, the amount of charges and costs adjudged to be paid shall be certified by the clerk of the superior court to the county treasurer and said treasurer shall proceed to enter the same on his rolls against the lands affected.

Sec. 22. Section 12, chapter 140, Laws of 1921 as amended by section 57, chapter 81, Laws of 1971 and RCW 17.16.110 are each amended to read as follows:

Any person feeling himself aggrieved at the decision and order of the board of county commissioners approving the amount of such expenses and establishing the same as a tax against the land involved may appeal therefrom to the superior court of the county, by serving a written notice of appeal on the board and by filing a copy of same with proof of service attached, together with a good and sufficient cost bond to be approved by the county clerk in the sum of two hundred dollars, said cost bond to run to the county and in all other respects to comply with the laws relating to cost bonds required of nonresident plaintiffs in the superior court. Said notice of appeal must be served and filed within ten days from the date of the decision and order of the board approving the amount of said expense and establishing the same as a tax against the land involved, and said appeal must be brought on for hearing upon a certified copy of the records in the matter without further pleadings, at the next term of court thereafter. ((~~An appeal from~~)) Appellate review of the judgment of the superior court in the matter may be ((~~taken to the supreme court or the court of appeals of the state~~)) sought as in other cases ((~~on appeal~~)). Upon the final conclusion of any ((~~appeal~~)) review so taken, the county clerk shall certify to the county treasurer the result of such ((~~appeal~~)) review.

Sec. 23. Section 10, chapter 211, Laws of 1955 as last amended by section 185, chapter 35, Laws of 1982 and RCW 19.77.100 are each amended to read as follows:

Any person who believes he will be damaged by a registration of a trademark by the secretary of state may request cancellation of such registration by filing with the secretary of state in duplicate a verified petition setting forth the facts in support of such request, accompanied by a fee of fifty dollars payable to the revolving fund of the secretary of state. To each copy of said petition for cancellation there shall be attached a copy of each of the trademarks or trade names, or the personal name, portrait, or signature, of the petitioner, or other exhibits of like character relied on in the petition. Thereafter the secretary of state shall mail to the registrant or his agent for service of record with the secretary of state a copy of said petition, addressed to the last known address of the registrant or such agent according to the files of the secretary of state, accompanied by a notice that said registrant may, within twenty days if the registrant is a resident of the state of Washington, or within sixty days if the registrant is a nonresident of the state of Washington, file in duplicate a verified answer to said petition. Thereafter the secretary of state shall forward a copy of said answer to said petitioner, accompanied by a notice that said petitioner may, within a specified time, not less than twenty days, file in duplicate a verified statement as to any further facts which are pertinent to issues raised by said answer, and the secretary of state shall in like manner forward a copy thereof to said registrant or such agent. The secretary of state shall then fix a hearing date not less than thirty days from the last day that the petitioner may file a statement of further facts. Written notice of such hearing shall be served on the parties by the secretary of state not less than fifteen days before the hearing in the same manner as the petition and answer were forwarded. Additional relevant testimony or other evidence may be introduced by the parties, and the secretary of state may subpoena such witnesses as he deems necessary. The parties shall have the right to be represented by counsel. On conclusion of the hearing the secretary of state shall grant or deny the petitioner's request for cancellation of the registration as the facts shall warrant and shall send a copy of his decision to the petitioner and to the registrant or such agent. If the secretary of state finds that the trademark should not have been registered, or is in violation of the common law rights of the petitioner, or if the secretary of state receives no answer from the registrant within the time limits specified hereinabove, he shall cancel said registration from the register, unless a petition for review of such decision is filed as provided hereinafter.

Either the petitioner or the registrant may, within sixty days after mailing of the copy of the decision by the secretary of state, file in the superior court of the state of Washington for Thurston county, and mail to the secretary of state and the other party or such agent at his last known address according to the files of the secretary of state, a petition for review of the decision of the secretary of state. The court shall review such decision on the basis of the record before the secretary of state for the purpose of

determining the reasonableness and lawfulness of such decision and, subject to ((~~the right of appeal to~~)) appellate review by the supreme court or the court of appeals of the state, the decree of the superior court shall be binding upon the secretary of state with respect to the granting or denial of the petitioner's request for cancellation. In any such petition for review the secretary of state shall be a necessary party, and the petitioner for cancellation and the registrant shall be proper parties.

Sec. 24. Section 20, chapter 139, Laws of 1959 as amended by section 66, chapter 81, Laws of 1971 and RCW 20.01.200 are each amended to read as follows:

((~~An appeal shall lie to the supreme court or the court of appeals from~~)) Appellate review of the judgment of the superior court may be sought as provided in other civil cases.

Sec. 25. Section 28, chapter 115, Laws of 1921 as amended by section 68, chapter 81, Laws of 1971 and RCW 24.32.360 are each amended to read as follows:

Every order, decision or other official act of the director of agriculture shall be subject to review, and any party aggrieved by such order, decision or act of the director of agriculture may appeal therefrom to the superior court of the county of Thurston by serving upon the director of agriculture a notice of such appeal, specifying the order, decision of act appealed from, and filing the same with the clerk of the superior court of the county of Thurston within sixty days after the date of such order, decision or official act. Whereupon the director of agriculture shall, within ten days after filing of such notice of appeal, make and certify a transcript of all the records and papers on file in his office affecting or relating to the order, decision or act appealed from, and upon the payment of the fee therefor by the appellant, the director of agriculture shall file the same in the office of the clerk of said superior court. Upon the hearing of such appeal the burden of proof shall be upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the director of agriculture from which appeal is taken. Any party ((~~to such appeal to the superior court who is~~)) aggrieved by the judgment of ((~~said court rendered upon such appeal may prosecute an appeal to the supreme court or the court of appeals of the state of Washington. The general laws relating to bills of exception, statements of fact and appeals to the supreme court or the court of appeals, shall apply to all appeals taken to the supreme court or the court of appeals under this chapter~~)) the superior court may seek appellate review of the judgment as in other civil cases: PROVIDED, That no supersedeas of the judgment of the superior court shall be allowed, except at the discretion of said superior court. If supersedeas is allowed, it shall be upon such bond and with such conditions as the superior court may require by its order.

Sec. 26. Section 28A.58.500, chapter 223, Laws of 1969 ex. sess. as amended by section 71, chapter 81, Laws of 1971 and RCW 28A.58.500 are each amended to read as follows:

Either party to the proceedings in the superior court may ((~~appeal~~)) seek appellate review of the decision ((~~to the supreme court or the court of appeals of this state~~)) as any other civil action ((~~is appealed~~)).

Sec. 27. Section 16, chapter 36, Laws of 1969 ex. sess. as amended by section 72, chapter 81, Laws of 1971 and RCW 28B.16.160 are each amended to read as follows:

(1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. ((~~Appeal shall be available to the supreme court or the court of appeals from~~)) Appellate review of the order of the superior court may be sought as in other civil cases.

Sec. 28. Section 29.79.170, chapter 9, Laws of 1965 and RCW 29.79-.170 are each amended to read as follows:

The decision of the superior court refusing to grant a writ of mandate, may be reviewed by the supreme court ((~~on a writ of certiorari sued out~~)) within five days after the decision of the superior court. The review shall be considered an emergency matter of public concern, and shall be heard and determined with all convenient speed, and if the supreme court decides that the petitions are legal in form and apparently contain the requisite number of signatures of legal voters, and were filed within the time prescribed in the Constitution, it shall issue its mandate directing the secretary of state to file the petition in his office as of the date of submission.

Sec. 29. Section 29.79.210, chapter 9, Laws of 1965 and RCW 29.79-.210 are each amended to read as follows:

Any citizen dissatisfied with the determination of the secretary of state that an initiative or referendum petition contains or does not contain the requisite number of signatures of legal voters may, within five days after such determination, apply to the superior court of Thurston county for a citation requiring the secretary of state to submit the petition to said court for examination, and for a writ of mandate compelling the certification of the measure and petition, or for an injunction to prevent the certification thereof to the legislature, as the case may be. Such application and all proceedings had thereunder shall take precedence over other cases and shall be speedily heard and determined.

The decision of the superior court granting or refusing to grant the writ of mandate or injunction may be reviewed by the supreme court ((~~on a writ of certiorari sued out~~)) within five days after the decision of the superior court, and if the supreme court decides that a writ of mandate or injunction, as the case may be, should issue, it shall issue the writ directed to the secretary of state; otherwise, it shall dismiss the proceedings. The clerk of the supreme court shall forthwith notify the secretary of state of the decision of the supreme court.

Sec. 30. Section 29.82.160, chapter 9, Laws of 1965 as amended by section 10, chapter 170, Laws of 1984 and RCW 29.82.160 are each amended to read as follows:

The superior court of the county in which the officer subject to recall resides has original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

The supreme court has like original jurisdiction in relation to state officers and revisory jurisdiction over the decisions of the superior courts. Any proceeding to compel or prevent the performance of any such act shall be begun within ten days from the time the cause of complaint arises, and shall be considered an emergency matter of public concern and take precedence over other cases, and be speedily heard and determined. ((~~Any proceeding to~~)) Appellate review of a decision of any superior court shall be begun and perfected within fifteen days after its decision in a recall election case and shall be considered an emergency matter of public concern by the supreme court, and heard and determined within thirty days after the decision of the superior court.

Sec. 31. Section 23, chapter 208, Laws of 1941 as amended by section 81, chapter 81, Laws of 1971 and RCW 31.08.260 are each amended to read as follows:

Whenever the supervisor shall deny an application for a license or shall revoke or suspend a license issued pursuant to this chapter, or shall issue any specific order or demand, then such applicant or licensee thereby affected may, within thirty days from the date of service of notice as provided for in this chapter, appeal to the superior court of the state of Washington for Thurston county. The appeal shall be perfected by serving a copy of the notice of appeal upon the supervisor and by filing it, together with proof of service, with the clerk of the superior court of Thurston county. Whereupon the supervisor shall, within fifteen days after filing of such notice of appeal, make and certify a transcript of the evidence and of all the records and papers on file in his office relating to the order appealed from, and the supervisor shall forthwith file the same in the office of the clerk of said superior court. The reasonable costs of preparing such transcript shall be assessed by the court as part of the costs. A trial shall be had in said superior court de novo. The applicant or licensee, as the case may be, shall be deemed the

plaintiff and the state of Washington the defendant. Each party shall be entitled to subpoena witnesses and produce evidence to sustain or reverse the findings and order or demand of the supervisor. During the pendency of any appeal from the order of revocation or suspension of a license, the order of revocation theretofore entered by the supervisor shall be stayed and any other order or demand appealed from may be stayed in the discretion of the court. Either party may ((~~appeal from~~)) seek appellate review of the judgment of said superior court ((~~to the supreme court or the court of appeals of the state of Washington~~)) as in other civil actions.

Sec. 32. Section 115, chapter 235, Laws of 1945 as amended by section 84, chapter 81, Laws of 1971 and RCW 33.04.060 are each amended to read as follows:

An association may petition the superior court of the state of Washington for Thurston county for the review of any decision, ruling, requirement or other action or determination of the supervisor, by filing its complaint, duly verified, with the clerk of the court and serving a copy thereof upon the supervisor. Upon the filing of the complaint, the clerk of the court shall docket the same as a cause pending therein.

The supervisor may answer the complaint and the petitioner reply thereto, and the cause shall be heard before the court as in other civil actions. Both the petitioner and the supervisor may ((~~appeal from~~)) seek appellate review of the decision of the court to the supreme court or the court of appeals of the state of Washington.

Sec. 33. Section 8, chapter 235, Laws of 1945 as last amended by section 85, chapter 81, Laws of 1971 and RCW 33.08.070 are each amended to read as follows:

The supervisor, not later than six months after receipt of the proposed articles and bylaws shall endorse upon each copy thereof the word "approved" or "refused" and the date thereof. In case of refusal, he shall forthwith return one copy of the articles and bylaws to the incorporators, and the refusal shall be final unless the incorporators, or a majority of them, within thirty days after the refusal, appeal to the superior court of Thurston county. The appeal may be accomplished by the incorporators preparing a notice of appeal, serving a copy of it upon the supervisor, and filing the notice with the clerk of the court, whereupon the clerk, under the direction of the judge, shall give notice to the appellants and to the supervisor of a date for the hearing of the appeal. The appeal shall be tried de novo by the court. At the hearing a record shall be kept of the evidence adduced, and the decision of the court shall be final unless ((~~an appeal therefrom is taken to the supreme court or the court of appeals~~)) appellate review is sought as in other cases.

Sec. 34. Section 113, chapter 235, Laws of 1945 as last amended by section 72, chapter 3, Laws of 1982 and RCW 33.40.120 are each amended to read as follows:

The court, upon notice and hearing, may remove the liquidator for cause. ((~~From such~~)) Appellate review of the order of removal ((~~the liquidator may appeal to the supreme court or the court of appeals by giving notice of appeal and posting bond for costs as in other appeals~~)) may be sought as in other civil cases.

During the pendency of any appeal, the director of general administration shall act as liquidator of the association, without giving any additional bond for the performance of the duties as such liquidator.

If such order of removal shall be affirmed, the director of general administration shall name another liquidator for the association, which nominee, upon qualifying as required for receivers generally, shall succeed to the position of liquidator of the association.

Sec. 35. Section 14, chapter 234, Laws of 1959 as amended by section 87, chapter 81, Laws of 1971 and RCW 34.04.140 are each amended to read as follows:

An aggrieved party may secure ((a)) appellate review of any final judgment of the superior court under this chapter by ((~~appeal to~~)) the supreme court or the court of appeals. Such ((~~appeal~~)) review shall be ((~~taken~~)) secured in the manner provided by law for ((~~appeals from the~~)) review of superior court decisions in other civil cases.

Sec. 36. Section 35.44.260, chapter 7, Laws of 1965 as amended by section 91, chapter 81, Laws of 1971 and RCW 35.44.260 are each amended to read as follows:

((~~An appeal shall lie to the supreme court or the court of appeals from~~)) Appellate review of the judgment of the superior court may be obtained as in other cases if ((~~taken~~)) sought within fifteen days after the date of the entry of the judgment in the superior court. ((~~The record and the opening brief of the appellant must be filed in the supreme court or the court of appeals within sixty days after the filing of the notice of appeal: PROVIDED, That the time for filing the record and the serving and filing of briefs may be extended by order of the superior court or by stipulation of the parties concerned.~~))

Sec. 37. Section 35.44.270, chapter 7, Laws of 1965 as amended by section 92, chapter 81, Laws of 1971 and RCW 35.44.270 are each amended to read as follows:

A certified copy of the decision of the superior court pertaining to assessments for local improvements shall be filed with the officer having custody of the assessment roll and he shall modify and correct the assessment roll in accordance with the decision. In ((~~case of appeal to the supreme court or the court of appeals~~)) the event appellate review of the decision is

sought, a certified copy of ((~~its~~)) the court's order shall be filed with the officer having custody of the assessment roll and ((~~he~~)) the officer shall thereupon modify and correct the assessment roll in accordance with the order.

Sec. 38. Section 35.55.080, chapter 7, Laws of 1965 as amended by section 94, chapter 81, Laws of 1971 and RCW 35.55.080 are each amended to read as follows:

Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred dollars and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. ((~~Appeal shall lie to the supreme court or the court of appeals~~)) Appellate review of the superior court's decision may be sought as in other causes.

Sec. 39. Section 35.56.090, chapter 7, Laws of 1965 as amended by section 95, chapter 81, Laws of 1971 and RCW 35.56.090 are each amended to read as follows:

Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council or commission to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council or commission. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred

dollars, and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff, and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. ((~~An appeal shall lie to the supreme court or the court of appeals~~)) Appellate review of the superior court's decision may be sought as in other causes.

Sec. 40. Section 16, chapter 189, Laws of 1967 as last amended by section 8, chapter 477, Laws of 1987 and RCW 36.93.160 are each amended to read as follows:

(1) When the jurisdiction of the boundary review board has been invoked, the board shall set the date, time and place for a public hearing on the proposal. The board shall give at least thirty days' advance written notice of the date, time and place of the hearing to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, disincorporated, dissolved or consolidated, or within the boundaries of a special district whose assets and facilities are proposed to be assumed by a city or town, and to the governing body of each city within three miles of the exterior boundaries of such area and to the proponent of such change. Notice shall also be given by publication in any newspaper of general circulation in the area of the proposed boundary change at least three times, the last publication of which shall be not less than five days prior to the date set for the public hearing. Notice shall also be posted in ten public places in the area affected for five days when the area is ten acres or more. When the area affected is less than ten acres, five notices shall be posted in five public places for five days. Notice as provided in this subsection shall include any territory which the board has determined to consider adding in accordance with RCW 36.93.150(2).

(2) A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit.

(3) The chairman upon majority vote of the board or a panel may direct the chief clerk of the boundary review board to issue subpoenas to any public officer to testify, and to compel the production by him of any records, books, documents, public records or public papers.

(4) Within forty days after the conclusion of the final hearing on the proposal, the board shall file its written decision, setting forth the reasons therefor, with the board of county commissioners and the clerk of each governmental unit directly affected. The written decision shall indicate

whether the proposed change is approved, rejected or modified and, if modified, the terms of such modification. The written decision need not include specific data on every factor required to be considered by the board, but shall indicate that all standards were given consideration. Dissenting members of the board shall have the right to have their written dissents included as part of the decision.

(5) Unanimous decisions of the hearing panel or a decision of a majority of the members of the board shall constitute the decision of the board and shall not be appealable to the whole board. Any other decision shall be appealable to the entire board within ten days. Appeals shall be on the record, which shall be furnished by the appellant, but the board may, in its sole discretion, permit the introduction of additional evidence and argument. Decisions shall be final and conclusive unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property or residing in the area affected by the decision files in the superior court a notice of appeal.

The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board.

(6) The superior court may affirm the decision of the board or remand the case for further proceedings; or it may reverse the decision if any substantial rights may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a) In violation of constitutional provisions, or

(b) In excess of the statutory authority or jurisdiction of the board, or

(c) Made upon unlawful procedure, or

(d) Affected by other error of law, or

(e) Unsupported by material and substantial evidence in view of the entire record as submitted, or

(f) Arbitrary or capricious.

An aggrieved party may ((~~secure a~~)) seek appellate review of any final judgment of the superior court ((~~by appeal to the supreme court or the court of appeals. Such appeal shall be taken~~)) in the manner provided by law ((~~for appeals from the superior court~~)) as in other civil cases.

Sec. 41. Section 29, chapter 72, Laws of 1967 as amended by section 98, chapter 81, Laws of 1971 and RCW 36.94.290 are each amended to read as follows:

The decision of the board of county commissioners upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of the board of county commissioners and with the clerk of the superior

court within ten days after the resolution confirming such assessment roll shall have become published, and such notice shall describe the property and set forth the objections of such appellant to such assessment. Within the ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court, a transcript consisting of the assessment roll and his objections thereto, together with the resolution confirming such assessment roll and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with sureties thereon as provided by law for appeals in civil cases, shall be filed conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, as aforesaid, the appellant shall give written notice to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time, not less than three days from the service thereof, when the appellant will call up the said cause for hearing. The superior court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury, and such cause shall have preference over all civil causes pending in said court, except proceedings under an act relating to eminent domain in such county and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have the custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision. ((~~An appeal shall lie to the supreme court or the court of appeals from~~)) Appellate review of the judgment of the superior court((~~,~~)) may be sought as in other cases((~~,~~)). However, ((~~such appeal~~)) review must be ((~~taken~~)) sought within fifteen days after the date of the entry of the judgment of such superior court((~~, and the record and opening brief of the appellant in said cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice as provided in this section. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation~~

~~of the parties concerned~~)). The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 42. Section 15, chapter 311, Laws of 1981 and RCW 41.64.140 are each amended to read as follows:

(1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. ((~~Appeal shall be available to the employee to the supreme court or the court of appeals from~~)) Appellate review of the order of the superior court may be sought as in other civil cases.

Sec. 43. Section 49, chapter 62, Laws of 1970 ex. sess. and RCW 43-.21B.190 are each amended to read as follows:

Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, or within thirty days after an appeal has been denied after an informal hearing, such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court. In all appeals involving a decision or an order of the hearings board after an informal hearing, the petition shall be filed in the superior court for the county of the petitioner's residence or principal place of business, or in the absence of a residence or principal place of business, for Thurston county. Such appeal may be perfected by filing with the clerk of the superior court a notice of appeal, and by serving a copy thereof by mail, or personally on the director, the air pollution control boards or authorities, established pursuant to chapter 70.94 RCW or on the board as the case may be. The hearings board shall serve upon the appealing party, the director, the air pollution control board or authorities established pursuant to chapter 70.94 RCW, or the board, as the case may be, and on any other party appearing at the hearings board's proceeding, and file with the clerk of the court before trial, a certified copy of the hearings board's decision and order. ((~~Every appeal from~~)) Appellate review of a decision of the superior court ((~~shall go directly to the supreme court, notwithstanding RCW 2.06.030~~)) may be sought as in other civil cases. No bond shall be required on appeals to the superior court or on

((~~appeals to~~)) review by the supreme court unless specifically required by the judge of the superior court.

Sec. 44. Section 43.52.430, chapter 8, Laws of 1965 as last amended by section 10, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.430 are each amended to read as follows:

Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. ((~~Appeal may be had to the supreme court or the court of appeals as in the case of civil appeals.~~)) Appellate review of the superior court's decision may be sought as in other civil cases.

Sec. 45. Section 47.32.060, chapter 13, Laws of 1961 as amended by section 180, chapter 7, Laws of 1984 and RCW 47.32.060 are each amended to read as follows:

At the time and place appointed for hearing upon the complaint, which hearing shall be by summary proceedings, if the court or judge thereof finds that due notice has been given by posting and publication and that the order of the department was duly made, and is further satisfied and finds that the state highway or portion thereof described is legally a state highway having the width of right of way specified in the order and that the structure, buildings, improvements, or other means of occupancy of the state highway or portion thereof as stated in the certificate of the department do in fact encroach, or that any portion thereof encroach, upon the state highway right of way, the court or judge thereof shall thereupon make and enter an order establishing that each of the structures, buildings, improvements, and other means of occupancy specified in the order is unlawfully maintained within the right of way and is subject to confiscation and sale and that they be forthwith confiscated, removed from the right of way, and sold, and providing that six days after the entry of the order, a writ shall issue from the court directed to the sheriff of the county, commanding the sheriff to seize and remove from the right of way of the state highway each such structure, building, improvement, or other means of occupancy specified in the order forthwith on receipt of a writ based on the order and to take and hold the property in his custody for a period of ten days, unless redelivered earlier as provided for by law, and if not then so redelivered to sell the property at public or private sale and to pay the proceeds thereof into the registry of the court within sixty days after the issuance of the writ, and further in such

action, including costs of posting original notices of the department, the costs of posting and publishing notices of hearing as part thereof and any cost of removal, be paid by the clerk to the state treasurer and credited to the motor vehicle fund. The order shall be filed with the clerk of the court and recorded in the minutes of the court, and is final unless appellate review thereof is ((~~taken to the supreme court of the state~~)) sought within five days after filing of the order.

Sec. 46. Section .31.19, chapter 79, Laws of 1947 as last amended by section 13, chapter 241, Laws of 1969 ex. sess. and RCW 48.31.190 are each amended to read as follows:

(1) Proceedings under this chapter involving a domestic insurer shall be commenced in the superior court for the county in which is located the insurer's home office. Proceedings under this chapter involving other insurers shall be commenced in the superior court for Thurston county.

(2) The commissioner shall commence any such proceeding, the attorney general representing him, by an application to the court or to any judge thereof, for an order directing the insurer to show cause why the commissioner should not have the relief prayed for.

(3) Upon a showing of an emergency or threat of imminent loss to policyholders of the insurer the court may issue an ex parte order authorizing the commissioner immediately to take over the premises and assets of the insurer, the commissioner then to preserve the status quo, pending a hearing on the order to show cause, which shall be heard as soon as the court calendar permits in preference to other civil cases.

(4) In response to any order to show cause issued under this chapter the insurer shall have the burden of going forward with and producing evidence to show why the relief prayed for by the commissioner is not required.

(5) On the return of such order to show cause, and after a full hearing, the court shall either deny the relief sought in the application or grant the relief sought in the application together with such other relief as the nature of the case and the interest of policyholders, creditors, stockholders, members, subscribers, or the public may require.

(6) No ((~~appeal taken from~~)) appellate review of a superior court order, entered after a hearing, granting the commissioner's petition to rehabilitate an insurer or to carry out an insolvency proceeding under this chapter, shall stay the action of the commissioner in the discharge of his responsibilities under this chapter, pending a decision by the appellate court in the matter.

(7) In any proceeding under this chapter the commissioner and his deputies shall be responsible on their official bonds for the faithful performance of their duties. If the court deems it desirable for the protection of the assets, it may at any time require an additional bond from the commissioner or his deputies.

Sec. 47. Section 21, chapter 37, Laws of 1957 as last amended by section 24, chapter 185, Laws of 1985 and RCW 49.60.260 are each amended to read as follows:

(1) The commission shall petition the court within the county wherein any unfair practice occurred or wherein any person charged with an unfair practice resides or transacts business for the enforcement of any final order which is not complied with and is issued by the commission or an administrative law judge under the provisions of this chapter and for appropriate temporary relief or a restraining order, and shall certify and file in court the final order sought to be enforced. Within five days after filing such petition in court, the commission shall cause a notice of the petition to be sent by registered mail to all parties or their representatives.

(2) From the time the petition is filed, the court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to grant such temporary relief or restraining order as it deems just and suitable.

(3) If the petition shows that there is a final order issued by the commission or administrative law judge under RCW 49.60.240 or 49.60.250 and that the order has not been complied with in whole or in part, the court shall issue an order directing the person who is alleged to have not complied with the administrative order to appear in court at a time designated in the order, not less than ten days from the date thereof, and show cause why the administrative order should not be enforced according to the terms. The commission shall immediately serve the person with a copy of the court order and the petition.

(4) The administrative order shall be enforced by the court if the person does not appear, or if the person appears and the court finds that:

(a) The order is regular on its face;

(b) The order has not been complied with; and

(c) The person's answer discloses no valid reason why the order should not be enforced, or that the reason given in the person's answer could have been raised by review under RCW 34.04.130, and the person has given no valid excuse for failing to use that remedy.

(5) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to ((a)) appellate review by the supreme court or the court of appeals, on appeal, by either party, irrespective of the nature of the decree or judgment. ((~~Such appeal~~)) The review shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases ((~~of appeal to the supreme court or the court of appeals, and the record so certified shall contain all that was before the lower court~~)).

Sec. 48. Section 132, chapter 35, Laws of 1945 as amended by section 121, chapter 81, Laws of 1971 and RCW 50.32.160 are each amended to read as follows:

It shall be unlawful for any attorney engaged in any appeal to the courts on behalf of an individual involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits to charge or receive any fee therein in excess of a reasonable fee to be fixed by the superior court in respect to the services performed in connection with the appeal taken thereto and to be fixed by the supreme court or the court of appeals in the event of ((~~an appeal thereto~~)) appellate review, and if the decision of the commissioner shall be reversed or modified, such fee and the costs shall be payable out of the unemployment compensation administration fund. In the allowance of fees the court shall give consideration to the provisions of this title in respect to fees pertaining to proceedings involving an individual's application for initial determination, claim for waiting period credit, or claim for benefits. In other respects the practice in civil cases shall apply.

Sec. 49. Section 1, chapter 40, Laws of 1973 as last amended by section 6, chapter 109, Laws of 1982 and RCW 51.52.110 are each amended to read as follows:

Within thirty days after a decision of the board to deny the petition or petitions for review upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the final decision and order of the board upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the appeal is denied as herein provided, such worker, beneficiary, employer or other person aggrieved by the decision and order of the board may appeal to the superior court. If such worker, beneficiary, employer, or other person fails to file with the superior court its appeal as provided in this section within said thirty days, the decision of the board to deny the petition or petitions for review or the final decision and order of the board shall become final.

In cases involving injured workers, an appeal to the superior court shall be to the superior court of the county of residence of the worker or beneficiary, as shown by the department's records, or to the superior court of the county wherein the injury occurred or where neither the county of residence nor the county wherein the injury occurred are in the state of Washington then the appeal may be directed to the superior court for Thurston county. In all other cases the appeal shall be to the superior court of Thurston county. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director and on the board. If the case is one involving a self-insurer, a copy of the notice of appeal shall also be served by mail, or personally, on such self-insurer. The department shall, in all cases not involving a self-insurer, within twenty days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. If the case is one involving a self-insurer, such self-insurer shall, within

twenty days after receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed to be at issue. In such cases the department may appear and take part in any proceedings. The board shall serve upon the appealing party, the director, the self-insurer if the case involves a self-insurer, and any other party appearing at the board's proceeding, and file with the clerk of the court before trial, a certified copy of the board's official record which shall include the notice of appeal and other pleadings, testimony and exhibits, and the board's decision and order, which shall become the record in such case. No bond shall be required on appeals to the superior court or on ((~~appeals to~~)) review by the supreme court or the court of appeals, except that an appeal by the employer from a decision and order of the board under RCW 51.48.070, shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the court, shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay: PROVIDED, HOWEVER, That whenever the board has made any decision and order reversing an order of the supervisor of industrial insurance on questions of law or mandatory administrative actions of the director, the department shall have the right of appeal to the superior court.

Sec. 50. Section 9, chapter 255, Laws of 1947 as amended by section 75, chapter 230, Laws of 1984 and RCW 52.22.101 are each amended to read as follows:

((~~An appeal from~~)) Appellate review of an order granting or refusing a new trial, or from the judgment, in the special proceedings must be taken by the party aggrieved within thirty days after the entry of the order or the judgment.

Sec. 51. Section 17, chapter 390, Laws of 1955 as last amended by section 123, chapter 81, Laws of 1971 and RCW 54.16.160 are each amended to read as follows:

Before approval of the roll, a notice shall be published once each week for two successive weeks in a newspaper of general circulation in the county, stating that the roll is on file and open to inspection in the office of the secretary, and fixing a time not less than fifteen nor more than thirty days from the date of the first publication of the notice, within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing shall be held by the commission on the protests. After the hearing the commission may alter any and all assessments shown on the roll and may, by resolution, approve it, but if an assessment is raised, a new notice, similar to the first, shall be given, and a hearing had thereon, after which final approval of the roll may be made. Any person aggrieved by the assessments shall perfect an appeal to the superior court of the county within ten days after the approval, in the manner provided for appeals from assessments levied by cities of the first class. In the event such

an appeal shall be taken, the judgment of the court shall confirm the assessment insofar as it affects the property of the appellant unless the court shall find from the evidence that such assessment is founded upon a fundamentally wrong basis and/or the decision of the commission thereon was arbitrary or capricious; in which event the judgment of the court shall correct, change, modify, or annul the assessment insofar as it affects the property of the appellant. In the same manner as provided with reference to cities of the first class ((~~an appeal shall lie to the supreme court or the court of appeals from~~)) appellate review of the judgment of the superior court may be sought, as in other cases, ((~~if taken~~)) within fifteen days after the date of the entry of the judgment in the superior court. Engineering, office, and other expenses necessary or incident to the improvement shall be borne by the public utility district: PROVIDED, That when a municipal corporation included in the public utility district already owns or operates a utility of a character like that for which the assessments are levied hereunder, all such engineering and other expenses shall be borne by the local assessment district.

Sec. 52. Section 1, chapter 142, Laws of 1959 as amended by section 124, chapter 81, Laws of 1971 and RCW 54.16.165 are each amended to read as follows:

Whenever any land against which there has been levied any special assessment by any public utility district shall have been sold in part or subdivided, the board of commissioners of such public utility district shall have the power to order a segregation of the assessment.

Any person owning any part of the land involved in a special assessment and desiring to have such special assessment against the tracts of land segregated to apply to smaller parts thereof shall apply in writing to the board of commissioners of the public utility district which levied the assessment. If the commissioners determine that a segregation should be made they shall do so as nearly as possible on the same basis as the original assessment was levied and the total of the segregated parts of the assessment shall equal the assessment before segregation.

The commission shall then send notice thereof by mail to the several owners interested in the tract, as shown on the general tax rolls. If no protest is filed within twenty days from date of mailing said notice, the commission shall then by resolution approve said segregation. If a protest is filed, the commission shall have a hearing thereon, after mailing to the several owners at least ten days notice of the time and place thereof. After the hearing, the commission may by resolution approve said segregation, with or without change. Within ten days after the approval, any person aggrieved by the segregation may perfect an appeal to the superior court of the county wherein the property is situated and ((~~therefrom to the supreme court or the court of appeals~~)) thereafter seek appellate review, all as provided for appeals from assessments levied by cities of the first class. The resolution

approving said segregation shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part, and shall order the county treasurer to make segregation on the original assessment roll as directed in the resolution. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make the segregation ordered. The board of commissioners may require as a condition to the order of segregation that the person seeking it pay the public utility district the reasonable engineering and clerical costs incident to making the segregation. Unless otherwise provided in said resolution, the county treasurer shall apportion amounts paid on the original assessment in the same proportion as the segregated assessments bear to the original assessment. Upon segregation being made by the county treasurer, as aforesaid, the lien of the special assessment shall apply to the segregated parcels only to the extent of the segregated part of such assessment.

Sec. 53. Section 13, chapter 114, Laws of 1929 as last amended by section 18, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.16.090 are each amended to read as follows:

The decision of the water district commission upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the secretary of said water district commission and with the clerk of the superior court in the county in which the real property is situated within ten days after publication of a notice that the resolution confirming such assessment roll has been adopted, and such notice of appeal shall describe the property and set forth the objections of such appellant to such assessment; and within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of the court, a transcript consisting of the assessment roll and the appellant's objections thereto, together with the resolution confirming such assessment roll and the record of the water district commission with reference to the assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by the secretary of the water district commission certified by the secretary to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful to pay all costs to which the water district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such

additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, the appellant shall give written notice to the secretary of such water district, that such transcript is filed. The notice shall state a time, not less than three days from the service thereof, when the appellant will call up the cause for hearing; and the superior court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury; and such cause shall have preference over all civil causes pending in the court, except proceedings under an act relating to eminent domain and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, who shall modify and correct such assessment roll in accordance with such decision. ((~~An appeal shall lie to the supreme court or the court of appeals from~~)) Appellate review of the judgment of the superior court((;)) may be sought as in other civil cases((~~: PROVIDED, HOWEVER, That such appeal must be taken~~)). However, the review must be sought within fifteen days after the date of the entry of the judgment of such superior court((~~; and the record and opening brief of the appellant in the cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice provided in this title. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation of the parties concerned. The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant~~)). A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 54. Section 49, chapter 231, Laws of 1909 as amended by section 127, chapter 81, Laws of 1971 and RCW 58.28.490 are each amended to read as follows:

((~~Appeals and writs of review may be prosecuted to the supreme court or the court of appeals from a superior court from~~)) Appellate review of the judgment or orders of the superior court in all cases arising under this chapter or said acts of congress may be sought as in other civil cases ((~~and the general statutes as to the commencement of actions, bringing the same to trial, making an entry of judgment, the taking and perfecting appeals, and the making up of the records on appeal and relating to writs of review in the superior court, court of appeals, and supreme court, and all other procedure in the superior court, court of appeals, and supreme court shall be applicable to actions under this chapter and under said acts of congress~~)).

Sec. 55. Section 22, chapter 96, Laws of 1891 as amended by section 128, chapter 81, Laws of 1971 and RCW 59.12.200 are each amended to read as follows:

((~~If either~~)) A party ((~~feels~~)) aggrieved by the judgment ((~~he~~)) may ((~~appeal to the supreme court or the court of appeals;~~)) seek appellate review of the judgment as in other civil actions: PROVIDED, That if the defendant appealing desires a stay of proceedings pending ((~~such appeal, he~~)) review, the defendant shall execute and file a bond, with two or more sufficient sureties to be approved by the judge, conditioned to abide the order of the court ((~~on such appeal~~)), and to pay all rents and other damages justly accruing to the plaintiff during the pendency of the ((~~appeal~~)) proceeding.

Sec. 56. Section 27, chapter 250, Laws of 1907 as amended by section 132, chapter 81, Laws of 1971 and RCW 65.12.175 are each amended to read as follows:

If the court, after hearing, finds that the applicant has title, whether as stated in his application or otherwise, proper for registration, a decree of confirmation of title and registration shall be entered. Every decree of registration shall bind the land, and quiet the title thereto, except as herein otherwise provided, and shall be forever binding and conclusive upon all persons, whether mentioned by name in the application, or included in "all other persons or parties unknown claiming any right, title, estate, lien or interest in, to, or upon the real estate described in the application herein", and such decree shall not be opened by reason of the absence, infancy or other disability of any person affected thereby, nor by any proceeding at law, or in equity, for reversing judgments or decrees, except as herein especially provided. ((~~An appeal may be taken to the supreme court or the court of appeals of the state of Washington, within the same time, upon like notice, terms and conditions as are now provided for the taking of appeals from the superior court to the supreme court or the court of appeals of the state of Washington~~)) Appellate review of the court's decision may be sought as in other civil actions.

Sec. 57. Section 72.33.240, chapter 28, Laws of 1959 as last amended by section 61, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.240 are each amended to read as follows:

Any parent, guardian, limited guardian, or other court appointed personal representative feeling aggrieved by an adverse decision pertaining to admission, placement, or discharge of his ward may apply to the secretary in writing within thirty days of notification of the decision for a review and reconsideration of the decision. An administrative hearing shall be held within ten days from the date of receipt of the written request for review. In the event of an unfavorable ruling by the secretary, such parent, guardian, limited guardian, or other court appointed personal representative may institute proceedings in the superior court of the state of Washington in the county of residence of such parent or guardian, otherwise in Thurston county, and have

such decision reviewed and its correctness, reasonableness, and lawfulness decided in an appeal heard as in initial proceeding on an original application. Said parent, guardian, limited guardian, or other court appointed personal representative ((~~shall have the right to appeal from~~)) may seek appellate review of the decision of the superior court ((~~to the supreme court or the court of appeals of the state of Washington;~~)) as in other civil cases.

*Sec. 57 was vetoed, see message at end of chapter.

Sec. 58. Section 74.08.080, chapter 26, Laws of 1959 as last amended by section 136, chapter 81, Laws of 1971 and RCW 74.08.080 are each amended to read as follows:

In the event an appellant feels himself aggrieved by the decision rendered in the hearing provided for in RCW 74.08.070, he shall have the right to petition the superior court for judicial review in accordance with the provisions of chapter 34.04 RCW, as now or hereafter amended. Either party may ((~~appeal from~~)) seek appellate review of the decision of the superior court ((~~to the supreme court or the court of appeals of the state~~)): PROVIDED, That no filing fee shall be collected of the appellant and no bond shall be required on any ((~~appeal~~)) review under this chapter. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the appellant, said appellant shall be entitled to reasonable attorney's fees and costs. If a decision of the court is made in favor of the appellant, assistance shall be paid from date of the denial of the application or forty-five days following the date of application, whichever is sooner; or in the case of a recipient, from the effective date of the initial departmental county office decision.

Sec. 59. Section 125, chapter 255, Laws of 1927 as amended by section 139, chapter 81, Laws of 1971 and RCW 79.01.500 are each amended to read as follows:

Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling himself aggrieved by any order or decision of the board of state land commissioners, or the commissioner of public lands, concerning the same, may appeal therefrom to the superior court of the county in which such lands or materials are situated, by serving upon all parties who have appeared in the proceedings in which the order or decision was made, or their attorneys, a written notice of appeal, and filing such notice, with proof, or admission, of service, with the board, or the commissioner, within thirty days from the date of the order or decision appealed from, and at the time of filing the notice, or within five days thereafter, filing a bond to the state, in the penal sum of two hundred dollars, with sufficient sureties, to be approved by the secretary of the board, or the commissioner, conditioned that the appellant shall pay all costs that may be awarded against him on appeal, or the dismissal thereof. Within thirty days after the filing of notice of appeal, the secretary of the board, or

the commissioner, shall certify, under official seal, a transcript of all entries in the records of the board, or the commissioner, together with all processes, pleadings and other papers relating to and on file in the case, except evidence used in such proceedings, and file such transcript and papers, at the expense of the applicant, with the clerk of the court to which the appeal is taken. The hearing and trial of said appeal in the superior court shall be de novo before the court, without a jury, upon the pleadings and papers so certified, but the court may order the pleadings to be amended, or new and further pleadings to be filed. Costs on appeal shall be awarded to the prevailing party as in actions commenced in the superior court, but no costs shall be awarded against the state, the board, or the commissioner. Should judgment be rendered against the appellant, the costs shall be taxed against him and his sureties on the appeal bond, except when the state is the only adverse party, and shall be included in the judgment, upon which execution may issue as in other cases. Any party feeling himself aggrieved by the judgment of the superior court may ((~~appeal therefrom to the supreme court or the court of appeals of the state, in the manner, and within the time, for appealing from judgments in actions at law~~)) seek appellate review as in other civil cases. Unless ((~~appeal be taken from~~)) appellate review of the judgment of the superior court is sought, the clerk of said court shall, on demand, certify, under his hand and the seal of the court, a true copy of the judgment, to the board, or the commissioner, which judgment shall thereupon have the same force and effect as if rendered by the board, or the commissioner. In all cases of appeals from orders or decisions of the commissioner of public lands involving the prior right to purchase tidelands of the first class, if the appeal be not prosecuted, heard and determined, within two years from the date of the appeal, the attorney general shall, after thirty days' notice to the appellant of his intention so to do, move the court for a dismissal of the appeal, but nothing herein shall be construed to prevent the dismissal of such appeal at any time in the manner provided by law.

Sec. 60. Section 80.04.190, chapter 14, Laws of 1961 as amended by section 4, chapter 107, Laws of 1971 ex. sess. and RCW 80.04.190 are each amended to read as follows:

The commission, any public service company or any complainant may, after the entry of judgment in the superior court in any action of review, ((~~prosecute an appeal to the supreme court or the court of appeals of the state of Washington~~)) seek appellate review as in other cases.

Sec. 61. Section 80.04.260, chapter 14, Laws of 1961 as amended by section 140, chapter 81, Laws of 1971 and RCW 80.04.260 are each amended to read as follows:

Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or

about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for the appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. ((~~An appeal may be taken to the supreme court or the court of appeals from such~~)) Appellate review of the final judgment may be sought in the same manner and with the same effect as ((~~appeals from~~)) review of judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of ((~~appeal~~)) review, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court or the court of appeals under the provisions of this section.

Sec. 62. Section 14, chapter 45, Laws of 1970 ex. sess. as last amended by section 3, chapter 64, Laws of 1981 and RCW 80.50.140 are each amended to read as follows:

(1) A final decision pursuant to RCW 80.50.100 on an application for certification shall be subject to judicial review pursuant to provisions of chapter 34.04 RCW and this section. Petitions for review of such a decision shall be filed in the Thurston county superior court. All petitions for review of a decision under RCW 80.50.100 shall be consolidated into a single proceeding before the Thurston county superior court. The Thurston county superior court shall certify the petition for review to the supreme court upon the following conditions:

(a) Review can be made on the administrative record;

(b) Fundamental and urgent interests affecting the public interest and development of energy facilities are involved which require a prompt determination;

(c) ((~~An appeal to~~)) Review by the supreme court would likely be ((~~made~~)) sought regardless of the determination of the Thurston county superior court; and

(d) The record is complete for review.

The Thurston county superior court shall assign a petition for review of a decision under RCW 80.50.100 for hearing at the earliest possible date and shall expedite such petition in every way possible. If the court finds that review cannot be limited to the administrative record as set forth in subparagraph (a) of this subsection because there are alleged irregularities in the procedure before the council not found in the record, but finds that the standards set forth in subparagraphs (b), (c), and (d) of this subsection are met, the court shall proceed to take testimony and determine such factual issues raised by the alleged irregularities and certify the petition and its determination of such factual issues to the supreme court. Upon certification, the supreme court shall assign the petition for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible.

(2) Objections raised by any party in interest concerning procedural error by the council shall be filed with the council within sixty days of the commission of such error, or within thirty days of the first public hearing or meeting of the council at which the general subject matter to which the error is related is discussed, whichever comes later, or such objection shall be deemed waived for purposes of judicial review as provided in this section.

(3) The rules and regulations adopted by the council shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW.

Sec. 63. Section 81.04.190, chapter 14, Laws of 1961 as amended by section 5, chapter 107, Laws of 1971 ex. sess. and RCW 81.04.190 are each amended to read as follows:

The commission, any public service company or any complainant may, after the entry of judgment in the superior court in any action of review, ((~~prosecute an appeal to the supreme court or the court of appeals of the state of Washington~~)) seek appellate review as in other cases.

Sec. 64. Section 81.04.260, chapter 14, Laws of 1961 as amended by section 143, chapter 81, Laws of 1971 and RCW 81.04.260 are each amended to read as follows:

Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding

in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. ((~~An appeal may be taken to the supreme court or the court of appeals from such~~)) Appellate review of the final judgment may be sought in the same manner and with the same effect as ((~~appeals from~~)) review of judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of ((~~appeal~~)) review, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court or the court of appeals under the provisions of this section.

Sec. 65. Section 81.53.130, chapter 14, Laws of 1961 as amended by section 144, chapter 81, Laws of 1971 and RCW 81.53.130 are each amended to read as follows:

In the construction of new railroads across existing highways, the railroads shall do or cause to be done all the work of constructing the crossings and road changes that may be required, and shall acquire and furnish whatever property or easements may be necessary, and shall pay, as provided in RCW 81.53.100 through 81.53.120, the entire expense of such work including all compensation or damages for property or property rights taken, damaged or injuriously affected. In all other cases the construction work may be apportioned by the commission between the parties who may be required to contribute to the cost thereof as the parties may agree, or as the commission may consider advisable. All work within the limits of railroad rights of way shall in every case be done by the railroad company owning or operating the same. The cost of acquiring additional lands, rights or easements to provide for the change of existing crossings shall, unless the

parties otherwise agree, in the first instance be paid by the municipality or county within which the crossing is located; or in the case of a state road or parkway, shall be paid in the manner provided by law for paying the cost of acquiring lands, rights or easements for the construction of state roads or parkways. The expense accruing on account of property taken or damaged shall be divided and paid in the manner provided for dividing and paying other costs of construction. Upon the completion of the work and its approval by the commission, an accounting shall be had, and if it shall appear that any party has expended more than its proportion of the total cost, a settlement shall be forthwith made. If the parties shall be unable to agree upon a settlement, the commission shall arbitrate, adjust and settle the account after notice to the parties. In the event of failure and refusal of any party to pay its proportion of the expense, the sum with interest from the date of the settlement may be recovered in a civil action by the party entitled thereto. In cases where the commission has settled the account, the finding of the commission as to the amount due shall be conclusive in any civil action brought to recover the same if such finding has not been reviewed or appealed from as herein provided, and the time for review or appeal has expired. If any party shall seek review ((~~or appeal from~~)) of any finding or order of the commission apportioning the cost between the parties liable therefor, the superior court, the court of appeals, or the supreme court, as the case may be, shall cause judgment to be entered in such review proceedings for such sum or sums as may be found lawfully or justly due by one party to another.

Sec. 66. Section 81.53.170, chapter 14, Laws of 1961 as amended by section 145, chapter 81, Laws of 1971 and RCW 81.53.170 are each amended to read as follows:

Upon the petition of any party to a proceeding before the commission, any finding or findings, or order or orders of the commission, made under color of authority of this chapter, except as otherwise provided, may be reviewed in the superior court of the county wherein the crossing is situated, and the reasonableness and lawfulness of such finding or findings, order or orders inquired into and determined, as provided in this title for the review of the commission's orders generally. ((~~An appeal may be taken to the supreme court or the court of appeals from~~)) Appellate review of the judgment of the superior court may be sought in like manner as provided in said utilities and transportation commission law for ((~~appeals to~~)) review by the supreme court or the court of appeals.

Sec. 67. Section 82.32.180, chapter 15, Laws of 1961 as last amended by section 148, chapter 81, Laws of 1971 and RCW 82.32.180 are each amended to read as follows:

Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the

tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW. In the appeal the taxpayer shall set forth the amount of the tax imposed upon him which he concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. Within ten days after filing notice of appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety bond payable to the state in the sum of two hundred dollars, conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove that the tax as paid by him is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party ((~~shall be allowed to appeal to the supreme court or the court of appeals~~)) may seek appellate review in the same manner as other civil actions are appealed to those courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.

Sec. 68. Section 84.28.080, chapter 15, Laws of 1961 as last amended by section 152, chapter 81, Laws of 1971 and RCW 84.28.080 are each amended to read as follows:

Whenever the department or the department of revenue shall enter an order or decision with respect to classification or declassification of forest lands under this chapter, the owner of such lands, the department, the county assessor of the county in which such lands are located, or the taxpayers in a case arising under RCW 84.28.060, may, within thirty days following the entry of such order or decision, appeal to the superior court of the county within which such lands are situated for a review of the order or decision of the department or of the department of revenue. The appeal

shall be perfected in the same manner as is provided by law for appeals from decisions of the department of revenue. Upon such appeal, the superior court shall sit without a jury, shall receive evidence de novo and shall determine the correct classification of the lands involved in accordance with the requirements of this chapter. The decision of the superior court shall be subject to ((~~appeal and~~)) appellate review ((~~in the supreme court or the court of appeals~~)) in the same manner ((~~and by the same procedure~~)) as appeals are taken and perfected in civil actions at law. Upon ((~~appeal from~~)) review of any order or decisions of the department or the department of revenue and pending the dismissal or final determination of such ((~~appeal~~)) review, the lands involved shall be assessed and taxed in the same manner as they were assessed and taxed prior to the effective date of such order or decision.

Sec. 69. Section 84.28.110, chapter 15, Laws of 1961 as last amended by section 153, chapter 81, Laws of 1971 and RCW 84.28.110 are each amended to read as follows:

Whenever the whole or any part of the forest crop shall be cut upon any lands classified and assessed as reforestation lands under the provisions of this chapter, the owner of such lands shall, on or before the fifteenth day of February of each year, report under oath to the assessor of the county in which such lands are located, the amount of such timber or other forest crop cut during the preceding twelve months, in units of measure in conformity with the usage for which the cutting was made, together with a description, by government legal subdivisions, of the lands upon which the same were cut. If no such report of cutting is made, or if the assessor shall believe the report to be inaccurate, incorrect or mistaken, the assessor may by such methods as shall be deemed advisable, determine the amount of timber or other forest product cut during such period. As soon as the report is filed, if the assessor is satisfied with the accuracy of the report, or if dissatisfied, as soon as the assessor shall have determined the amount of timber or forest crop cut as herein provided, the assessor shall determine the full current stumpage rates for the timber or forest crop cut and shall thereupon compute, and there shall become due and payable from the owner, a yield tax equal to twelve and one-half percent of the market value of the timber or forest crop so cut, based upon the full current stumpage rates so fixed by the assessor: PROVIDED, Whenever within the period of twelve years following the classification of any lands as reforestation lands, any forest material shall be cut on such lands, the owner thereof shall be required to pay a yield tax of one percent for each year that has expired from the date of such classification until such cutting: PROVIDED, FURTHER, That no yield tax need be paid on any forest material cut for domestic use of the owner of such lands, or on materials necessarily used in harvesting the forest crop.

Whenever the owner is dissatisfied with the determination of the amount cut as made by the assessor, or with the full current stumpage rates as fixed by the assessor, and shall pay the tax based thereon under protest, such owner may maintain an action in the superior court of the county in which the lands are located for recovery of the amount of the tax paid in excess of what the owner alleges the tax would be if based upon a cutting or stumpage rate which the owner alleges to be correct. In any such action the county involved and the county assessor of the county, shall be joined as parties defendant, but in case a recovery is allowed, judgment shall be entered against the county only, to be charged against the funds to which the collected tax was paid. In such action the court shall determine, in accordance with the issues, the true and correct amount of timber and forest crop which has been cut, and if an issue in the case, the true and correct full current stumpage rates, and shall enter judgment accordingly, either dismissing the action, or allowing recovery based upon its determination of the amount of timber or forest crop cut and if in issue, the full current stumpage rate. The judgment of the superior court shall be subject to ((~~appeal to the supreme court or the court of appeals~~)) appellate review in the same manner and by the same procedure as appeals are taken and perfected in civil actions at law.

Sec. 70. Section 84.64.120, chapter 15, Laws of 1961 as amended by section 154, chapter 81, Laws of 1971 and RCW 84.64.120 are each amended to read as follows:

((~~Appeals from~~)) Appellate review of the judgment of the superior court may be ((~~taken to the supreme court or the court of appeals at any time~~)) sought as in other civil cases. However, review must be sought within thirty days after the ((~~rendition of said~~)) entry of the judgment ((~~by giving notice thereof orally in open court at the time of the rendition of the judgment, or by giving written notice thereof at any time thereafter, and within thirty days from the date of the rendition of such judgment;~~)) and the party taking such appeal shall execute, serve and file a bond payable to the state of Washington, with two or more sureties, to be approved by the court, in an amount to be fixed by the court, conditioned that the appellant shall prosecute his said appeal with effect, and will pay the amount of any taxes, interest and costs which may be finally adjudged against the real property involved in the appeal by any court having jurisdiction of the cause, which bond shall be so served and filed at the time of the service of said notice of appeal, and the respondent may, within five days after the service of such bond, object to the sureties thereon, or to the form and substance of such bond, in the court in which the action is pending, and if, upon hearing of such objections to said bond, it is determined by the court that the sureties thereon are insufficient for any reason, or that the bond is defective for any other reason, the court shall direct a new bond to be executed with sureties thereon, to be justified as provided by law, but no appeal shall be allowed

from any judgment for the sale of land or lot for taxes, and no bond given on appeal as herein provided shall operate as a supersedeas, unless the party taking such appeal shall before the time of giving notice of such appeal, and within thirty days herein allowed within which to appeal, deposit with the county treasurer of the county in which the land or lots are situated, an amount of money equal to the amount of the judgment and costs rendered in such cause by the trial court. If, in case of an appeal, the judgment of the lower court shall be affirmed, in whole or in part, the supreme court or the court of appeals shall enter judgment for the amount of taxes, interest and costs, with damages not to exceed twenty percent, and shall order that the amount deposited with the treasurer as aforesaid, or so much thereof as may be necessary, be credited upon the judgment so rendered, and execution shall issue for the balance of said judgment, damages and costs. The clerk of the supreme court or the clerk of the division of the court of appeals in which the appeal is pending shall transmit to the county treasurer of the county in which the land or lots are situated a certified copy of the order of affirmance, and it shall be the duty of such county treasurer upon receiving the same to apply so much of the amount deposited with him, as aforesaid, as shall be necessary to satisfy the amount of the judgment of the supreme court, and to account for the same as collected taxes. If the judgment of the superior court shall be reversed and the cause remanded for a rehearing, and if, upon a rehearing, judgment shall be rendered for the sale of the land or lots for taxes, or any part thereof, and such judgment be not appealed from, as herein provided, the clerk of such superior court shall certify to the county treasurer the amount of such judgment, and thereupon it shall be the duty of the county treasurer to certify to the county clerk the amount deposited with him, as aforesaid, and the county clerk shall credit such judgment with the amount of such deposit, or so much thereof as will satisfy the judgment, and the county treasurer shall be chargeable and accountable for the amount so credited as collected taxes. Nothing herein shall be construed as requiring an additional deposit in case of more than one appeal being prosecuted in said proceeding. If, upon a final hearing, judgment shall be refused for the sale of the land or lots for the taxes, penalties, interest and costs, or any part thereof, in said proceedings, the county treasurer shall pay over to the party who shall have made such deposit, or his legally authorized agent or representative, the amount of the deposit, or so much thereof as shall remain after the satisfaction of the judgment against the land or lots in respect to which such deposit shall have been made.

Sec. 71. Section 84.64.400, chapter 15, Laws of 1961 as amended by section 155, chapter 81, Laws of 1971 and RCW 84.64.400 are each amended to read as follows:

Any person aggrieved by the judgment rendered in such action ((~~shall have the right to appeal from~~)) may seek appellate review of the part of said judgment objectionable to him ((~~to the supreme court or the court of~~

~~appeals of the state substantially~~)) in the manner and within the time prescribed for appeals in RCW 84.64.120.

Sec. 72. Section 10, chapter 153, Laws of 1915 as amended by section 156, chapter 81, Laws of 1971 and RCW 85.05.079 are each amended to read as follows:

Either the dike commissioners or any landowner who has appealed to the superior court in accordance with the provisions of this act ((~~shall have a right to appeal to the supreme court or the court of appeals~~)) may seek appellate review within the time and in the manner prescribed by existing law.

Sec. 73. Section 6, chapter 342, Laws of 1955 as amended by section 158, chapter 81, Laws of 1971 and RCW 85.05.470 are each amended to read as follows:

Any protestant who filed a protest prior to the final order of the board, may appeal from such final order, but to do so must within ten days from the date said order was entered, bring direct action in the superior court in the county wherein such district or portion thereof is situated, against such board of commissioners in their official capacity, which action shall be prosecuted under the procedure of civil actions, with ((~~right of appeal to the supreme court or the court of appeals~~)) appellate review as provided in civil actions. In any such action so brought, the order of the board shall be conclusive of the regularity and propriety of the proceedings, and all other matters, except it shall be open to attack upon the ground of fraud, unfair dealing, arbitrary or unreasonable action of the board.

Sec. 74. Section 9, chapter 67, Laws of 1903 and RCW 85.06.630 are each amended to read as follows:

From any final order entered by the said superior court as above provided for, any party to said proceeding feeling himself aggrieved thereby may ((~~take an appeal to the supreme court of the state of Washington~~)) seek appellate review, as provided by the general appeal law of this state.

Sec. 75. Section 3, chapter 170, Laws of 1935 as amended by section 160, chapter 81, Laws of 1971 and RCW 85.06.660 are each amended to read as follows:

Whenever the board of commissioners of any district desire to exercise any of the foregoing powers under this act, it shall pass a resolution declaring its intention to do so, which shall describe in general terms the proposed improvement to be undertaken. The resolution shall set a date upon which the board shall meet to determine whether such work shall be done. Thereafter a copy of such declaratory resolution and a notice of hearing shall be posted by the secretary or member of the board, in three public places in such district at least ten days before the date of hearing. The notice shall state the time and place of hearing and that plans therefor are on file with the secretary of the board subject to inspection by any party interested.

Any property owner affected by such proposed improvement, or any property owner within such district, may appear at said hearing and object to said proposed improvement by filing a written protest against the proposed action of the board. The protest shall clearly state the basis thereof. At such hearing, which shall be public, the board shall give full consideration to the proposed project and all protests filed, and on said date or any adjourned date, take final action thereon. If protests be filed before said hearing by owners of more than forty percent of the property in said district, the board shall not have power to make the proposed improvement nor again initiate the same for one year. If the board determines to proceed with such project in its original or modified form, it shall thereupon adopt a resolution so declaring and adopt general plans therefor, which resolution may authorize the acquisition by condemnation, or otherwise, of the necessary rights and properties to complete the same. Any protestant who filed a written protest prior to said hearing may appeal from the order of the board, but to do so must, within ten days from the date of entering of such order, bring direct action in the superior court of the state of Washington in the county wherein such district is situated, against such board of directors in their official capacity, which action shall be prosecuted under the procedure for civil actions, with the right of ((~~appeal to the supreme court or the court of appeals~~)) appellate review, as provided in other civil actions. In any action so brought, the order of the board shall be conclusive of the regularity and propriety of the proceedings and all other matters except it shall be open to attack upon the ground of fraud, unfair dealing, arbitrary, or unreasonable action of the board.

Sec. 76. Section 5, chapter 187, Laws of 1921 as amended by section 161, chapter 81, Laws of 1971 and RCW 85.06.750 are each amended to read as follows:

Upon the return of the verdict of the jury as provided in the preceding section, if it shall appear to the court that the total benefits found by the jury to have accrued to the lands of the district is equal to or exceeds the actual cost of the improvement including the increased cost of completing the same, the court shall enter its judgment in accordance therewith, as supplemental to and in lieu of the original decree fixing the benefits to the respective tracts of land, and thereafter the assessment and levy for the original cost of the construction of the improvement, including the indebtedness incurred for completing the improvement together with interest at the legal rate on the warrants issued therefor, and all assessments and levies if any, for the future maintenance of the drainage system described in the judgment shall be based upon the respective benefits determined and assessed against the respective tracts of land as specified in the judgment. Every person or corporation feeling himself or itself aggrieved by any such judgment may ((~~appeal therefrom to the supreme court or the court of appeals~~)) seek appellate review within thirty days after the entry thereof, and

such ((~~appeal~~)) review shall bring before the ((~~supreme court or the court of appeals~~)) appellate court the propriety and justness of the verdict of the jury in respect to the parties to the ((~~appeal~~)) proceeding.

Sec. 77. Section 1, chapter 157, Laws of 1921 as amended by section 162, chapter 81, Laws of 1971 and RCW 85.08.440 are each amended to read as follows:

The decision of the board of county commissioners upon any objections made within the time and in the manner prescribed in RCW 85.08.400 through 85.08.430, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of such board and with the clerk of the superior court of the county in which such drainage or diking improvement district is situated, or in case of joint drainage or diking improvement districts with the clerk of the court of the county in which the greater length of such drainage or diking improvement system lies, within ten days after the order confirming such assessment roll shall have become effective, and such notice shall describe the property and set forth the objections of such appellant to such assessment; and, within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court a transcript consisting of the assessment roll and his objections thereto, together with the order confirming such assessment roll, and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners, and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court, the appellant shall execute and file with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with good and sufficient surety, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county or the drainage or diking improvement district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require; within three days after such transcript is filed in the superior court as aforesaid, the appellant shall give written notice to the prosecuting attorney of the county, and to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time (not less than three days from the service thereof) when the appellant will call up the said cause for hearing; and the superior court of said county shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without

a jury. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision. ((~~An appeal shall lie to the supreme court or the court of appeals from~~)) Appellate review of the judgment of the superior court may be sought as in other civil cases((: ~~PROVIDED, HOWEVER, That such appeal must be taken~~)). However, the review must be sought within fifteen days after the date of the entry of the judgment of such superior court((~~, and the record and opening brief of the appellant in said cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice as provided in this chapter. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation of the parties concerned. And the supreme court or the court of appeals, on such appeal, may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant~~)). A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 78. Section 14, chapter 184, Laws of 1967 as amended by section 163, chapter 81, Laws of 1971 and RCW 85.15.130 are each amended to read as follows:

((~~An appeal shall lie to the supreme court or the court of appeals from the superior court~~)) Appellate review may be sought as in other civil cases: PROVIDED, That ((~~such appeal must be taken~~)) review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals may change, conform, correct, or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county treasurer having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such judgment as and if required.

Sec. 79. Section 14, chapter 26, Laws of 1949 as amended by section 164, chapter 81, Laws of 1971 and RCW 85.16.190 are each amended to read as follows:

The decision of the board upon any objections to the determination of benefits and/or apportionment of costs and/or the levy of the assessments therefor, made within the time and in the manner prescribed in RCW 85-.16.130, may be reviewed by ((~~appeal to~~)) the superior court of the county in which the district is situated and thereafter ((~~to~~)) by the supreme court or the court of appeals within the time and in the manner and upon the conditions, so far as applicable, provided in RCW 85.08.440, with respect to

appeals from and appellate review of the board's apportionment of the cost of construction of the district's system of improvements. The provisions of RCW 85.08.450, shall be controlling as to the regularity, validity, and conclusiveness of all the proceedings hereunder.

Sec. 80. Section 16, chapter 26, Laws of 1949 as amended by section 165, chapter 81, Laws of 1971 and RCW 85.16.210 are each amended to read as follows:

At such hearing, which may be adjourned from time to time as may be necessary to give all persons interested or affected a reasonable opportunity to be heard, and after consideration of all evidence offered and all factors, situations and conditions bearing upon or determinative of the benefits accruing and to accrue to such pieces or parcels of property, the board shall correct, revise, raise, lower, or otherwise change or confirm the benefits as theretofore determined, in respect of such pieces or parcels of property, as to it shall seem fair, just and equitable under the circumstances, and thereafter such proceedings shall be had with respect to the confirmation or determination of the benefits and making and filing of a roll thereof, as are in RCW 85.16.130, 85.16.150 and 85.16.160 provided. Any property owner affected by any change thus made in the determination of benefits accruing to his property who shall have appeared at the hearing by the board and made written objections thereto as provided in RCW 85.16.130, may appeal from the action of the board to the superior court and ((~~thence to~~)) seek appellate review by the supreme court or the court of appeals, within the time, in the manner and upon the conditions, so far as applicable, provided in RCW 85.08.440, with respect to appeals from the order of the board confirming the apportionment of the original cost of construction.

Sec. 81. Section 15, chapter 45, Laws of 1951 as amended by section 166, chapter 81, Laws of 1971 and RCW 85.18.140 are each amended to read as follows:

((~~An appeal shall lie to the supreme court or the court of appeals from the superior court~~)) Appellate review may be sought as in other civil cases: PROVIDED, HOWEVER, That ((~~such appeal must be taken~~)) review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals, on such appeal, may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision if required.

Sec. 82. Section 6, chapter 225, Laws of 1909 as amended by section 167, chapter 81, Laws of 1971 and RCW 85.24.130 are each amended to read as follows:

Any person interested in any real estate affected by said assessment may, within the time fixed, appear and file objections. As to all parcels, lots or blocks as to which no objections are filed, within the time as aforesaid, the assessment thereon shall be confirmed and shall be final. On the hearing, each person may offer proof, and proof may also be offered on behalf of the assessment, and the board shall affirm, modify, change and determine the assessment, in such sum as to the board appears just and right. The commissioners may increase the assessment during such hearing upon any particular tract by mailing notice to the owner at his last known address, to be and appear within a time not less than ten days after the date of the notice, to show cause why his assessment should not be increased. When the assessment is finally equalized and fixed by the board, the secretary thereof shall certify the same to the county treasurer of each county in which the lands are situated, for collection; or if appeal has been taken from any part thereof, then so much thereof as has not been appealed from shall be certified. In case any owner of property appeals to the superior court in relation to the assessment or other matter when the amount of the assessment is determined by the court finally, either upon determination of the superior court, or ((~~appeal to~~)) review by the supreme court or the court of appeals, then the assessment as finally fixed and determined by the court shall be certified by the clerk of the proper court to the county treasurer of the county in which the lands are situated and shall be spread upon and become a part of the assessment roll hereinbefore referred to.

Sec. 83. Section 7, chapter 225, Laws of 1909 as amended by section 168, chapter 81, Laws of 1971 and RCW 85.24.140 are each amended to read as follows:

Any person who feels aggrieved by the final assessment made against any lot, block or parcel of land owned by him, may appeal therefrom to the superior court of the county in which the land is situated. Such appeal shall be taken within the time and substantially in the manner prescribed by the laws of this state for appeals from justices' courts. All notice of appeal shall be filed with the said board, and shall be served upon the prosecuting attorney of the county in which the action is brought. The secretary of the board shall, at appellant's expense, certify to the superior court so much of the record as appellant may request, and the cause shall be tried in the superior court de novo.

Any person ((~~desiring to appeal from~~)) aggrieved by any final order or judgment made by the superior court concerning any assessment authorized by this chapter, may ((~~appeal therefrom to the supreme court or the court of appeals, in accordance with the laws of this state relative to appeals, except that all such appeals shall be taken within thirty days after the entry of such judgment~~)) seek appellate review of the order or judgment as in other civil cases.

Sec. 84. Section 21, chapter 131, Laws of 1961 as amended by section 169, chapter 81, Laws of 1971 and RCW 85.32.200 are each amended to read as follows:

((~~An appeal shall lie to the supreme court or the court of appeals from the superior court~~)) Appellate review may be sought as in other civil cases: PROVIDED, That such ((~~appeal must be taken~~)) review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals on such ((~~appeal~~)) review may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision, if required.

Sec. 85. Section 8, chapter 194, Laws of 1933 as amended by section 170, chapter 81, Laws of 1971 and RCW 87.03.410 are each amended to read as follows:

Any person aggrieved by the judgment rendered in such action ((~~shall have the right to appeal from~~)) may seek appellate review of the part of said judgment objectionable to him ((~~to the supreme court or the court of appeals of the state in the manner and within the time prescribed for appeals~~)) as in civil actions generally.

***Sec. 85 was vetoed, see message at end of chapter.**

Sec. 86. Section 3, chapter 138, Laws of 1925 ex. sess. as amended by section 171, chapter 81, Laws of 1971 and RCW 87.03.760 are each amended to read as follows:

At the conclusion, or final adjournment, of the hearing provided for in RCW 87.03.755, the board of directors of the district shall have the power, by unanimous resolution to adopt the proposed plan, or such modification thereof as may be determined by the board, and reduce the boundaries of the district to such area as, in the judgment of the board, can be furnished with sufficient water for successful irrigation by the irrigation system of the district, and to exclude from the district all lands lying outside of such reduced boundaries, and provide for the repayment to the owners of any such excluded lands, respectively, of any sums paid for assessments levied by the district, and to cancel all unpaid assessments levied by the district against the lands excluded and release such lands from further liability therefor. Any person interested and feeling himself aggrieved by the adoption of such final resolution reducing the boundaries of the district and excluding lands therefrom, shall have a right of appeal from the action of the board to the superior court of the county in which the district is situated, which appeal may be taken in the manner provided by law for appeals from justices' courts, and if upon the hearing of such appeal it shall be determined by the court that the irrigation system of the district will not furnish sufficient water for the successful irrigation of the lands included within the reduced

boundaries of the district, or that any lands have been excluded from the district unnecessarily, arbitrarily, capriciously or fraudulently or without substantial reason for such exclusion, the court shall enter a decree canceling and setting aside the proceedings of the board of directors, otherwise the court shall enter a decree confirming the action of the board. Any party to the proceedings on appeal in the superior court, feeling himself aggrieved by the decree of the superior court confirming the action of the board of directors of the district reducing the boundaries of the district and excluding lands therefrom, ((~~shall have the right of appeal therefrom to the supreme court or the court of appeals of the state of Washington~~)) may seek appellate review within thirty days after the entry of the decree of the superior court in the manner provided by law. If, at the expiration of thirty days from the entry of the final resolution of the board of directors of the district reducing the boundaries of the district and excluding lands therefrom, no appeal has been taken to the superior court of the county in which the district is situated, or if, after hearing upon appeal the superior court shall confirm the action of the district, and at the expiration of thirty days from the entry of such decree, no ((~~appeal has been taken to the supreme court or the court of appeals~~)) appellate review is sought, the boundaries of the district shall thereafter be in accordance with the resolution of the board reducing the boundaries, and all lands excluded from the district by such resolution shall be relieved from all further liability for any indebtedness of the district or any unpaid assessments theretofore levied against such lands, and the owners of excluded lands, upon which assessments have been paid, shall be entitled to warrants of the district for all sums paid by reason of such assessments, payable from a special fund created for that purpose, for which levies shall be made upon the lands remaining in the district, as the board of directors may provide.

Sec. 87. Section 4, chapter 138, Laws of 1925 ex. sess. as amended by section 172, chapter 81, Laws of 1971 and RCW 87.03.765 are each amended to read as follows:

Whenever it shall appear, to the satisfaction of the director of ecology, that the irrigation system of any irrigation district, to which the department of ecology of the state of Washington under a contract with the district for the purchase of its bonds, has advanced funds for the purpose of constructing an irrigation system for the district, has been found incapable of furnishing sufficient water for the successful irrigation of all of the lands of such district, and that the board of directors of such district has reduced the boundaries thereof and excluded from the district, as provided in RCW 87-.03.750 through 87.03.760, sufficient lands to render such irrigation system adequate for the successful irrigation of the lands of the district, and that more than thirty days have elapsed since the adoption of the resolution by the board of directors reducing the boundaries of the district and excluding lands therefrom, and no appeal has been taken from the action of the board,

or that the action of the board has been confirmed by the superior court of the county in which the district is situated and no appeal has been taken to the supreme court or the court of appeals, or that upon ((~~appeal to~~)) review by the supreme court or the court of appeals the action of the board of directors of the district has been confirmed, the director of ecology shall be and he is hereby authorized to cancel and reduce the obligation of the district to the department of ecology, for the repayment of moneys advanced for the construction of an irrigation system for the district, to such amount as, in his judgment, the district will be able to pay from revenues derived from assessments upon the remaining lands of the district, and to accept, in payment of the balance of the obligation of the district, the authorized bonds of the district, in numerical order beginning with the lowest number, on the basis of the percentage of the face value thereof fixed in contracts between the district and the department of ecology, in an amount equal to said balance of the obligation of the district, in full and complete satisfaction of all claims of the department of ecology against the district.

Sec. 88. Section 11, chapter 120, Laws of 1929 as amended by section 173, chapter 81, Laws of 1971 and RCW 87.22.090 are each amended to read as follows:

((~~Appeal may be taken to the supreme court or the court of appeals from~~)) Appellate review of the judgment entered in said proceedings may be sought in the same manner as in other cases in equity. ((~~Notice of appeal need be served only on the persons who have appeared in said proceedings and on the president of the board of directors if the district is respondent, or on their respective attorneys of record in the proceedings.~~))

Sec. 89. Section 29, chapter 124, Laws of 1925 ex. sess. as amended by section 174, chapter 81, Laws of 1971 and RCW 87.56.225 are each amended to read as follows:

Any interested person feeling aggrieved at the judgment of the superior court dismissing the proceedings or determining the indebtedness of the district and the status and priority thereof and determining the plan of liquidation, may ((~~appeal from~~)) seek appellate review of such judgment ((~~to the supreme court or the court of appeals~~)) in the same manner as in other cases in equity, except that notice of appeal must be both served and filed within sixty days from the entry thereof.

Sec. 90. Section 7, chapter 236, Laws of 1907 as amended by section 175, chapter 81, Laws of 1971 and RCW 88.32.090 are each amended to read as follows:

Any person who feels aggrieved by the final assessment made against any lot, block or parcel of land owned by him may appeal therefrom to the superior court of such county. Such appeal shall be taken within the time, and substantially in the manner prescribed by the laws of this state for appeals from justice's courts. All notices of appeal shall be filed with the board

of county commissioners, and served upon the prosecuting attorney of the county. The clerk of the board of county commissioners shall at appellant's expense certify to the superior court so much of the record, as appellant may request, and the cause shall be tried in the superior court de novo.

Any person ((~~desiring to appeal from~~)) aggrieved by any final order or judgment, made by the superior court concerning any assessment authorized by RCW 88.32.010 through 88.32.220, may ((~~appeal therefrom to the supreme court or the court of appeals;~~)) seek appellate review of the order or judgment in accordance with the laws of this state relative to such ((~~appeals~~)) review, except that ((~~all such appeals shall be taken~~)) review shall be sought within thirty days after the entry of such judgment.

Sec. 91. Section 23, chapter 117, Laws of 1917 as last amended by section 79, chapter 109, Laws of 1987 and RCW 90.03.200 are each amended to read as follows:

Upon the filing of the evidence and the report of the department, any interested party may, on or before five days prior to the date of said hearing, file exceptions to such report in writing and such exception shall set forth the grounds therefor and a copy thereof shall be served personally or by registered mail upon all parties who have appeared in the proceeding. If no exceptions be filed, the court shall enter a decree determining the rights of the parties according to the evidence and the report of the department, whether such parties have appeared therein or not. If exceptions are filed the action shall proceed as in case of reference of a suit in equity and the court may in its discretion take further evidence or, if necessary, remand the case for such further evidence to be taken by the department's designee, and may require further report by him. Costs, not including taxable attorneys fees, may be allowed or not; if allowed, may be apportioned among the parties in the discretion of the court. ((~~Appeal may be taken to the supreme court or the court of appeals from such~~)) Appellate review of the decree shall be in the same manner as in other cases in equity, except that ((~~notice of appeal must be both served and filed~~)) review must be sought within sixty days from the entry thereof.

Sec. 92. Section 1, chapter 103, Laws of 1921 as amended by section 80, chapter 109, Laws of 1987 and RCW 90.03.210 are each amended to read as follows:

During the pendency of such adjudication proceedings prior to judgment or upon ((~~appeal to the supreme court of the state or other~~)) review by an appellate court, the stream or other water involved shall be regulated or partially regulated according to the schedule of rights specified in the department's report upon an order of the court authorizing such regulation: PROVIDED, Any interested party may file a bond and obtain an order staying the regulation of said stream as to him, in which case the court shall make such order regarding the regulation of the stream or other water as he may deem just. The bond shall be filed within five days following the service

of notice of appeal in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court.

Sec. 93. Section 8, chapter 107, Laws of 1939 as amended by section 177, chapter 81, Laws of 1971 and RCW 90.24.070 are each amended to read as follows:

Any person aggrieved by the order of judgment of the superior court may ((~~appeal to the supreme court or the court of appeals~~)) seek appellate review in the same manner as in other civil actions.

Sec. 94. Section 23, chapter 23, Laws of 1911 as amended by section 180, chapter 81, Laws of 1971 and RCW 91.08.250 are each amended to read as follows:

Any final judgment rendered by said court upon the findings of the court or a jury, shall be the lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases: PROVIDED, That in case any defendant recovers no award, no costs shall be taxed. Such judgment shall be final and conclusive as to the damages caused by such improvement, unless ((~~appealed from~~)) appellate review is sought, and no ((~~appeal from the same~~)) review shall delay proceedings under the order of said board if it shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs; but such board after making such payment into court shall be liable to such owner or owners, or parties interested, for the payment of any further compensation which may at any time be finally awarded to such parties ((~~so appealing~~)) seeking review in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor and abide any rule or order of the court in relation to the matter in controversy. In case of ((~~an appeal to~~)) review by the supreme court or the court of appeals of the state ((~~by any party to the proceedings~~)), the money so paid into the superior court by the board, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property, accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively ((~~an appeal to the supreme court or the court of appeals~~)) appellate review and final judgment may be rendered in the superior court as in other cases.

Sec. 95. Section 58, chapter 23, Laws of 1911 as amended by section 181, chapter 81, Laws of 1971 and RCW 91.08.580 are each amended to read as follows:

((~~Every defendant feeling~~)) Any person aggrieved by any condemnation judgment for compensation or damages, or by any judgment confirming an assessment upon land for benefits under this chapter, may ((~~appeal to~~

~~the supreme court or the court of appeals of the state from such~~)) seek appellate review of the judgment((~~s within thirty days after the entry thereof. An appeal from a condemnation judgment may bring before the supreme court or the court of appeals either the legality of the proceeding as a taking for a public use, or the justness of the amount of compensation or damages awarded to the appellant, but an appeal from a judgment confirming an assessment of benefits shall bring before the supreme court or the court of appeals only the justness of the assessment against the property of the appellant. Two or more defendants may join in an appeal. The bill of exceptions or statement of facts upon such appeals shall contain only such portions of the evidence in the case as relates to the property of the appellants. Otherwise than as provided in this section such appeals shall be taken as provided by law in appeals from final judgments in actions at law~~)) as in other civil cases.

NEW SECTION. Sec. 96. The following acts or parts of acts are each repealed:

(1) Section 4, chapter 24, Laws of 1909 and RCW 2.04.160;

(2) Section 5, chapter 24, Laws of 1909 and RCW 2.04.170;

(3) Section 29, chapter 61, Laws of 1893, section 1, chapter 86, Laws of 1941, section 3, chapter 107, Laws of 1971 ex. sess., section 4, chapter 331, Laws of 1981 and RCW 4.88.260; and

(4) Section 13, chapter 117, Laws of 1973 1st ex. sess. and RCW 10-.77.130.

NEW SECTION. Sec. 97. 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 7, 1988.
Passed the House February 29, 1988.
Approved by the Governor March 22, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 22, 1988.

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

"I am returning herewith, without my approval as to sections 57 and 85, Senate Bill No. 5016, entitled:

"AN ACT Relating to modifications of terminology resulting from the Rules of Appellate Procedure."

Sections 57 and 85 make technical corrections to existing laws which are repealed by other legislation which I have signed. I am vetoing section 57 because it would amend a section of existing law (RCW 72.33.240) that is repealed by Engrossed Substitute House Bill No. 1618, section 1007(24). I am vetoing section 85 because it would amend a section of existing law (RCW 87.03.410) that is repealed by Substitute House Bill No. 1297, section 15(20).

With the exception of sections 57 and 85, the remainder of Senate Bill No. 5016 is approved."

CHAPTER 203

[Substitute Senate Bill No. 6219]

ADOPTION—CONSENT, WHEN IT MAY BE DISPENSED WITH

AN ACT Relating to consent to adoption; and amending RCW 26.33.170 and 13.34.210.

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

Sec. 1. Section 17, chapter 155, Laws of 1984 and RCW 26.33.170 are each amended to read as follows:

An agency's, the department's, or a legal guardian's consent to adoption may be dispensed with if the court determines by clear, cogent and convincing evidence that the proposed adoption is in the best interests of the adoptee ((~~and that the refusal to consent to adoption is arbitrary and capricious~~)).

Sec. 2. Section 49, chapter 291, Laws of 1977 ex. sess. as amended by section 49, chapter 155, Laws of 1979 and RCW 13.34.210 are each amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department of social and health services or to a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption, or in the absence thereof in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a general guardian of the child has not been appointed by the court, the child shall be returned to the court for entry of further orders for his or her care, custody, and control, and the court shall review the case every six months thereafter until a decree of adoption is entered.

Passed the Senate February 13, 1988.
Passed the House March 9, 1988.
Approved by the Governor March 22, 1988.
Filed in Office of Secretary of State March 22, 1988.

CHAPTER 204

[Senate Bill No. 6408]

ENERGY CODE

AN ACT Relating to the dates for submission of the recommendations required under RCW 19.27A.040(4) and for expiration of state supersession of local residential energy codes; and amending RCW 19.27A.030 and 19.27A.040.

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

Sec. 1. Section 3, chapter 144, Laws of 1985 and RCW 19.27A.030 are each amended to read as follows:

(1) The revised state energy code shall supersede all local government residential energy codes except as provided in subsections (2) and (3) of this section: PROVIDED, That cities, towns, and counties may adopt more energy efficient codes for residential construction if the builder or owner of new residential construction is reimbursed by an authorized federal agency program or authorized local utility, or both, for those additional costs to the consumer of conservation components that are attributable to the more energy efficient codes. This subsection shall not apply after January 1, ((~~1989~~)) 1990. In establishing this date it is not the legislature's intent to discourage any city, town, or county from adopting a more energy efficient code so long as the consumer is adequately reimbursed.

(2) The revised state energy code shall not preempt energy codes, adopted by a city, town, or county of the state prior to ((~~April 24, 1985~~)) January 15, 1988, or first class cities with a population over three hundred thousand which operate electrical utilities, that are designed to achieve reduction in energy consumption relative to the revised state energy code.

(3) The revised state energy code shall not preempt a less energy efficient energy code adopted by a county, city, or town if it can be shown that the revised state energy code is not cost-effective for that county, city, or town.

Sec. 2. Section 4, chapter 144, Laws of 1985 and RCW 19.27A.040 are each amended to read as follows:

(1) The University of Washington college of architecture and department of mechanical engineering shall conduct in situ testing of the annual thermal transmittance of individual construction components and conservation measures proposed for new residential construction by the northwest power planning council.

(2) There shall be a committee to oversee the study. The committee shall include the director of the state energy office as chair; two members recommended by the home building industry chosen by the governor; and two members nationally renowned as experts in building energy performance chosen by the governor.

(3) The study shall include an analysis of the economic feasibility of adopting thermal performance standards for new residential construction as proposed by the northwest power planning council. The study of economic feasibility shall include but not necessarily be limited to factors which shall not require an amortization of the individual components exceeding a life cycle of seven years and a discount rate (interest) computed at the current conventional market rate of home mortgages at par.

(4) The director of the state energy office shall ((~~make recommendations, based on the results of the study and the residential standards demonstration program, to the legislature and the state building code advisory council regarding the cost-effectiveness of the revised state energy code developed pursuant to RCW 19.27.075 no later than January 15, 1988~~)) establish a scientific peer review panel to assess the validity of the results of the study, the results of the residential standards demonstration program and other relevant data sources, and any proposed recommendations based on those results. The peer review panel shall include representatives of the national laboratories, the national association of homebuilders research foundation, the electric power research institute, the gas research institute and the international conference of building officials. The director of the state energy office shall make recommendations based on the study, the residential standards demonstration program and other relevant data sources, and the conclusions of the scientific peer review panel to the legislature and the state building code council regarding the cost-effectiveness of the revised state energy code developed pursuant to RCW 19.27A.020 no later than January 15, 1989.

(5) If federal funds are not available, the study shall be funded by a surcharge on building permit fees for new building construction imposed by all local governments of the state. The department of community development, after consultation with the state energy office, shall develop and implement a method of collecting the surcharge. The surcharge shall be ten dollars on all multifamily residential building permits, fifteen dollars on all single-family residential building permits, and fifteen dollars on all other building permits. The surcharge shall terminate on June 30, 1989, or at such time as the state general fund is reimbursed for the cost of the study.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
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CHAPTER 205

[Substitute Senate Bill No. 6474]

REAL ESTATE BROKERS AND SALESPERSONS

AN ACT Relating to real estate brokers and salespersons; amending RCW 18.85.040, 18.85.095, 18.85.240, 18.85.251, and 18.85.271; reenacting and amending RCW 18.85.215 and 18.85.230; and adding a new section to chapter 18.85 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.85 RCW to read as follows:

All real estate brokers and salespersons shall furnish proof as the director may require that they have successfully completed a total of thirty clock hours of instruction every two years in real estate courses approved by the director in order to renew their licenses. Up to fifteen clock hours of instruction beyond the thirty hours in two years may be carried forward for credit in a subsequent two-year period. To count towards this requirement, a course shall be commenced within thirty-six months before the proof date for renewal. This section shall apply to renewal dates after January 1, 1991.

Sec. 2. Section 4, chapter 252, Laws of 1941 as last amended by section 2, chapter 332, Laws of 1987 and RCW 18.85.040 are each amended to read as follows:

The director, with the advice and approval of the commission, may issue rules and regulations to govern the activities of real estate brokers, associate real estate brokers and salespersons, consistent with this chapter, fix the times and places for holding examinations of applicants for licenses and prescribe the method of conducting them. The director shall enforce all laws, rules and regulations relating to the licensing of real estate brokers, associate real estate brokers, and salespersons, grant or deny licenses to real estate brokers, associate real estate brokers, and salespersons, and hold hearings ((~~and~~)). The director may impose any one or more of the following sanctions: Suspend or revoke licenses, ((~~or~~)) deny applications for licenses, ((~~or~~)) fine violators ((~~and may~~)), or require the completion of a course in a selected aspect of real estate practice relevant to the provision of this chapter or rule violated. The director may deny, suspend or revoke the authority of a broker to act as the designated broker of persons who commit violations of the real estate license law or of the rules and regulations. The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions. The director shall institute a program of education for the benefit of the licensees and may institute a program of education at institutions of higher education in Washington. The director shall charge a fee, as prescribed by the director by rule, for the certification of courses of instruction, instructors, and schools.

Sec. 3. Section 7, chapter 139, Laws of 1972 ex. sess. as last amended by section 3, chapter 332, Laws of 1987 and RCW 18.85.095 are each amended to read as follows:

(1) It is hereby established that the minimum requirements for an individual to receive a salesperson's license are that the individual:

((~~(1)~~)) (a) Is eighteen years of age or older;

((~~(2)~~)) (b) Has passed a salesperson's examination; and

((~~(3)~~)) (c) Except as provided in RCW 18.85.097, has successfully completed a thirty clock hour course in real estate fundamentals prior to obtaining a first real estate license.

(2) Except as provided in RCW 18.85.097, no licensed salesperson shall have his or her license renewed a second time unless he or she furnishes proof, as the director may require, that he or she has successfully completed an additional thirty clock hours of instruction in real estate courses approved by the director. This subsection shall expire January 1, 1991.

Nothing in this section shall apply to persons who are licensed as salespersons under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked.

Sec. 4. Section 8, chapter 370, Laws of 1977 ex. sess. as last amended by section 17, chapter 332, Laws of 1987 and by section 1, chapter 514, Laws of 1987 and RCW 18.85.215 are each reenacted and amended to read as follows:

(1) Any license issued under this chapter and not otherwise revoked shall be deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be renewed on the same terms and conditions as an active license, ((~~and~~)) except that a person with an inactive license need not comply with the continuing education requirements of section 1 of this 1988 act. Failure to renew shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto. Subject to RCW 18-.85.097, if a holder has an inactive license for more than three years, the holder must show proof of successfully completing a thirty clock hour course in real estate within one year prior to the application for active status. Holders employed by the state and conducting real estate transactions on behalf of the state are exempt from this course requirement.

(4) The provisions of this chapter relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an

inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

Sec. 5. Section 4, chapter 25, Laws of 1979 as amended by section 9, chapter 332, Laws of 1987 and by section 15, chapter 370, Laws of 1987 and RCW 18.85.230 are each reenacted and amended to read as follows:

The director may, upon his or her own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesperson, regardless of whether the transaction was for his or her own account or in his or her capacity as broker, associate real estate broker, or real estate salesperson, and may impose any one or more of the following sanctions: Suspend or revoke, ((or)) levy a fine not to exceed one thousand dollars for each offense, require the completion of a course in a selected area of real estate practice relevant to the section of this chapter or rule violated, or deny the license of any holder or applicant who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 58.19 RCW or the rules adopted under those chapters;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include 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;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any associate broker or salesperson who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book or record in his or her possession for inspection of the director or his or her authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesperson or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesperson or associate broker operates, to the advertisement;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker, associate broker, or salesperson has an interest unless his or her interest is clearly stated in the appraisal report;

(17) Misrepresentation of his or her membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the

director may require, such records to be available to the director, or his or her representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a branch manager, associate broker, or salesperson of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom he or she is licensed;

(23) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his or her principal;

(24) Failing to disclose to an owner his or her intention or true position if he or she directly or indirectly through third party, purchases for himself or herself or acquires or intends to acquire any interest in, or any option to purchase, property;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his or her licensed associate brokers and salespersons within the scope of this chapter;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a mobile home and travel trailer dealer or salesperson, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so;

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker, associate broker, or salesperson; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter.

Sec. 6. Section 45, chapter 52, Laws of 1957 as amended by section 10, chapter 332, Laws of 1987 and RCW 18.85.240 are each amended to read as follows:

The director may deputize one or more assistants to perform his or her duties with reference to ((~~refusal, revocation, or suspension of licenses and imposition of fines~~)) disciplinary action.

Sec. 7. Section 23, chapter 222, Laws of 1951 as last amended by section 11, chapter 332, Laws of 1987 and RCW 18.85.251 are each amended to read as follows:

The disciplinary proceedings ((~~for revocation or suspension of a license or imposition of a fine or refusal to renew a license or accept an application~~

~~for an initial license or license renewal~~)) shall be had on motion of the director or after a statement in writing verified by some person or persons familiar with the facts upon which the proposed ((~~revocation, suspension, refusal, or fine~~)) disciplinary action is based has been filed with the director. Upon receipt of such statement or accusation, the director shall make a preliminary investigation of the facts charged to determine whether the statement or accusation is sufficient. If the director shall determine the statement or accusation is sufficient to require formal action, the director shall thereupon set the matter for hearing at a specified time and place. A copy of such order setting time and place and a copy of the verified statement shall be served upon the licensee or applicant involved not less than twenty days before the day appointed in the order for said hearing. The department of licensing, the licensee or applicant accused, and the person making the accusation may be represented by counsel at such a hearing. The director or an administrative law judge appointed under chapter 34.12 RCW shall hear and receive pertinent evidence and testimony.

Sec. 8. Section 25, chapter 222, Laws of 1951 as last amended by section 13, chapter 332, Laws of 1987 and RCW 18.85.271 are each amended to read as follows:

If the director shall decide, after such hearing, that the evidence supports the accusation by a preponderance of evidence, the director may ((~~revoke or suspend the license, or fine the licensee, or deny the application for, or renewal of, a license~~)) impose sanctions authorized under RCW 18.85-.040. In such event the director shall enter an order to that effect and shall file the same in his or her office and immediately mail a copy thereof to the affected party at the address of record with the department. Such order shall not be operative for a period of ten days from the date thereof. Any licensee or applicant aggrieved by a final decision by the director in a contested case whether such decision is affirmative or negative in form, is entitled to a judicial review in the superior court under the provisions of the Administrative Procedure Act, chapter 34.04 RCW. Upon instituting appeal in the superior court, the appellant shall give a cash bond to the state of Washington, which bond shall be filed with the clerk of the court, in the sum of five hundred dollars to be approved by the judge of said court, conditioned to pay all costs that may be awarded against such appellant in the event of an adverse decision, such bond and notice to be filed within thirty days from the date of the director's decision.

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CHAPTER 206

[Engrossed Second Substitute Senate Bill No. 6221]

SEXUALLY TRANSMITTED DISEASES—AIDS—PUBLIC HEALTH AND EDUCATION

AN ACT Relating to sexually transmitted diseases; amending RCW 43.150.050, 28A.05-.010, 70.24.050, 70.24.070, 70.24.080, 70.24.110, 70.24.120, and 9A.36.021; adding a new section to chapter 28A.05 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 28C.04 RCW; adding new sections to chapter 49.60 RCW; adding new sections to chapter 70.24 RCW; adding a new section to chapter 70.48 RCW; creating new sections; repealing RCW 70.24.010, 70.24.020, 70.24.030, 70.24.040, and 70.24.060; prescribing penalties; providing an effective date; and declaring an emergency.

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

PART I
DEFINITIONS

NEW SECTION. Sec. 101. A new section is added to chapter 70.24 RCW to read as follows:

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

(1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(2) "Board" means the state board of health.

(3) "Department" means the department of social and health services, or any successor department with jurisdiction over public health matters.

(4) "Health care provider" means any person who is a member of a profession under RCW 18.130.040 or other person providing medical, nursing, psychological, or other health care services regulated by the department of licensing or the department of social and health services.

(5) "Health care facility" means a hospital, nursing home, neuropsychiatric or mental health facility, home health agency, hospice, child care agency, adult family home, group care facility, family foster home, clinic, blood bank, blood center, sperm bank, laboratory, or other social service or health care institution regulated or operated by the department of social and health services.

(6) "HIV-related condition" means any medical condition resulting from infection with HIV including, but not limited to, seropositivity for HIV.

(7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which damage the cellular branch of the human immune or neurological systems and leave the infected person immunodeficient or neurologically impaired.

(8) "Test for a sexually transmitted disease" means a test approved by the board by rule.

(9) "Legal guardian" means a person appointed by a court to assume legal authority for another who has been found incompetent or, in the case of a minor, a person who has legal custody of the child.

(10) "Local public health officer" means the officer directing the county health department or his or her designee who has been given the responsibility and authority to protect the health of the public within his or her jurisdiction.

(11) "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation, or health facility.

(12) "Release of test results" means a written authorization for disclosure of any sexually transmitted disease test result which is signed, dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.

(13) "Sexually transmitted disease" means a bacterial, viral fungal, or parasitic disease, determined by the board by rule to be sexually transmitted, to be a threat to the public health and welfare, and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. The board shall designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), trachomitis, genital human papilloma virus infection, syphilis, acquired immunodeficiency syndrome (AIDS), and human immunodeficiency virus (HIV) infection as sexually transmitted diseases, and shall consider the recommendations and classifications of the centers for disease control and other nationally recognized medical authorities in designating other diseases as sexually transmitted.

(14) "State public health officer" means the secretary of social and health services or an officer appointed by the secretary.

PART II
SEXUAL ABSTINENCE AND AVOIDANCE OF SUBSTANCE ABUSE

NEW SECTION. Sec. 201. A new section is added to chapter 70.24 RCW to read as follows:

Information directed to the general public and providing education regarding any sexually transmitted disease that is written, published, distributed, or used by any public entity, and all such information paid for, in whole or in part, with any public moneys shall give emphasis to the importance of sexual abstinence, sexual fidelity, and avoidance of substance abuse in controlling disease.

NEW SECTION. Sec. 202. A new section is added to chapter 70.24 RCW to read as follows:

All material directed to children in grades kindergarten through twelve and providing education regarding any sexually transmitted disease that is written, published, distributed, or used by any public entity, and all such information paid for, in whole or in part, with any public moneys shall give emphasis to the importance of sexual abstinence outside lawful marriage and avoidance of substance abuse in controlling disease.

PART III
CENTER FOR VOLUNTARY ACTION

Sec. 301. Section 5, chapter 11, Laws of 1982 1st ex. sess. and RCW 43.150.050 are each amended to read as follows:

The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons with acquired immunodeficiency syndrome, as defined in chapter 70.24 RCW.

PART IV
AIDS EDUCATION IN THE COMMON SCHOOLS

NEW SECTION. Sec. 401. The legislature finds that the public schools provide a unique and appropriate setting for educating young people about the pathology and prevention of acquired immunodeficiency syndrome (AIDS). The legislature recognizes that schools and communities vary throughout the state and that locally elected school directors should have a

significant role in establishing a program of AIDS education in their districts.

NEW SECTION. Sec. 402. A new section is added to chapter 28A.05 RCW to read as follows:

(1) The life-threatening dangers of acquired immunodeficiency syndrome (AIDS) and its prevention shall be taught in the public schools of this state. AIDS prevention education shall be limited to the discussion of the life-threatening dangers of the disease, its spread, and prevention. Students shall receive such education at least once each school year beginning no later than the fifth grade.

(2) Each district board of directors shall adopt an AIDS prevention education program which is developed in consultation with teachers, administrators, parents, and other community members including, but not limited to, persons from medical, public health, and mental health organizations and agencies so long as the curricula and materials developed for use in the AIDS education program either (a) are the model curricula and resources under subsection (3) of this section, or (b) are developed by the school district and approved for medical accuracy by the office on AIDS established in section 602 of this act. If a district elects to use curricula developed by the school district, the district shall submit to the office on AIDS a copy of its curricula and an affidavit of medical accuracy stating that the material in the district-developed curricula has been compared to the model curricula for medical accuracy and that in the opinion of the district the district-developed materials are medically accurate. Upon submission of the affidavit and curricula, the district may use these materials until the approval procedure to be conducted by the office of AIDS has been completed.

(3) Model curricula and other resources available from the superintendent of public instruction through the state clearinghouse for educational information may be reviewed by the school district board of directors, in addition to materials designed locally, in developing the district's AIDS education program. The model curricula shall be reviewed for medical accuracy by the office on AIDS established in section 602 of this act within the department of social and health services.

(4) Each school district shall, at least one month before teaching AIDS prevention education in any classroom, conduct at least one presentation during weekend and evening hours for the parents and guardians of students concerning the curricula and materials that will be used for such education. The parents and guardians shall be notified by the school district of the presentation and that the curricula and materials are available for inspection. No student may be required to participate in AIDS prevention education if the student's parent or guardian, having attended one of the district presentations, objects in writing to the participation.

(5) The office of the superintendent of public instruction with the assistance of the office on AIDS shall update AIDS education curriculum material as newly discovered medical facts make it necessary.

(6) The curriculum for AIDS prevention education shall be designed to teach students which behaviors place a person dangerously at risk of infection with the human immunodeficiency virus (HIV) and methods to avoid such risk including, at least:

(a) The dangers of drug abuse, especially that involving the use of hypodermic needles; and

(b) The dangers of sexual intercourse, with or without condoms.

(7) The program of AIDS prevention education shall stress the life-threatening dangers of contracting AIDS and shall stress that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the AIDS virus through sexual contact. It shall also teach that condoms and other artificial means of birth control are not a certain means of preventing the spread of the AIDS virus and reliance on condoms puts a person at risk for exposure to the disease.

Sec. 403. Section 28A.05.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 232, Laws of 1987 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, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcoholic stimulants and narcotics on the human system, science with special reference to the environment, 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 methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

NEW SECTION. Sec. 404. Sections 402 and 403 of this act shall take effect July 1, 1988.

PART V
AIDS EDUCATION IN COLLEGES, UNIVERSITIES, AND VOCATIONAL SCHOOLS

NEW SECTION. Sec. 501. A new section is added to chapter 28B.10 RCW to read as follows:

The governing board of each state four-year institution of higher education shall make information available to all newly matriculated students

on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network.

NEW SECTION. Sec. 502. A new section is added to chapter 28B.50 RCW to read as follows:

The state board for community college education shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network.

NEW SECTION. Sec. 503. A new section is added to chapter 28C.04 RCW to read as follows:

Each publicly operated vocational school shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network.

PART VI
AIDS TRAINING FOR EMPLOYEES

NEW SECTION. Sec. 601. The number of acquired immunodeficiency syndrome (AIDS) cases in the state may reach five thousand by 1991. This makes it necessary to provide our state's workforce with the resources and knowledge to deal with the epidemic. To ensure that accurate information is available to the state's work force, a clearinghouse for all technically correct educational materials related to AIDS should be created.

NEW SECTION. Sec. 602. There is established in the department an office on AIDS. If a department of health is created, the office on AIDS shall be transferred to the department of health, and its chief shall report directly to the secretary of health. The office on AIDS shall have as its chief a physician licensed under chapter 18.57 or 18.71 RCW or a person experienced in public health who shall report directly to the assistant secretary for health. This office shall be the repository and clearinghouse for all education and training material related to the treatment, transmission, and prevention of AIDS. The office on AIDS shall have the responsibility for coordinating all publicly funded education and service activities related to AIDS. The University of Washington shall provide the office on AIDS with appropriate training and educational materials necessary to carry out its duties. The office on AIDS shall assist state agencies with information necessary to carry out the purposes of this chapter. The department shall work with state

and county agencies and specific employee and professional groups to provide information appropriate to their needs, and shall make educational materials available to private employers and encourage them to distribute this information to their employees.

NEW SECTION. Sec. 603. The department shall adopt rules that recommend appropriate education and training for licensed and certified emergency medical personnel under chapter 18.73 RCW on the prevention, transmission, and treatment of AIDS. The department shall require appropriate education or training as a condition of certification or license issuance or renewal.

NEW SECTION. Sec. 604. Each disciplining authority under chapter 18.130 RCW shall adopt rules that require appropriate education and training for licensees on the prevention, transmission, and treatment of AIDS. The disciplining authorities shall work with the office on AIDS under section 602 of this act to develop the training and educational material necessary for health professionals.

NEW SECTION. Sec. 605. The state board of pharmacy shall adopt rules that require appropriate education and training for licensees on the prevention, transmission, and treatment of AIDS. The board shall work with the office on AIDS under section 602 of this act to develop the training and educational material necessary for health professionals.

NEW SECTION. Sec. 606. The superintendent of public instruction shall adopt rules that require appropriate education and training, to be included as part of their present continuing education requirements, for public school employees on the prevention, transmission, and treatment of AIDS. The superintendent of public instruction shall work with the office on AIDS under section 602 of this act to develop the educational and training material necessary for school employees.

NEW SECTION. Sec. 607. The state personnel board, the higher education personnel board, and each unit of local government shall determine whether any employees under their jurisdiction have a substantial likelihood of exposure in the course of their employment to the human immunodeficiency virus. If so, the agency or unit of government shall adopt rules requiring appropriate training and education for the employees on the prevention, transmission, and treatment of AIDS. The rules shall specifically provide for such training and education for law enforcement, correctional, and health care workers. The state personnel board, the higher education personnel board, and each unit of local government shall work with the office on AIDS under section 602 of this act to develop the educational and training material necessary for employees.

NEW SECTION. Sec. 608. The department shall adopt rules requiring appropriate education and training of employees of state licensed or certified health care facilities. The education and training shall be on the

prevention, transmission, and treatment of AIDS and shall not be required for employees who are covered by comparable rules adopted under other sections of this chapter. In adopting rules under this section, the department shall consider infection control standards and educational materials available from appropriate professional associations and professionally prepared publications.

NEW SECTION. Sec. 609. Sections 602 through 608 of this act are each added to chapter 70.24 RCW.

PART VII
COUNSELING AND TESTING

NEW SECTION. Sec. 701. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Pretest counseling" means counseling aimed at helping the individual understand ways to reduce the risk of HIV infection, the nature and purpose of the tests, the significance of the results, and the potential dangers of the disease, and to assess the individual's ability to cope with the results.

(2) "Posttest counseling" means further counseling following testing usually directed toward increasing the individual's understanding of the human immunodeficiency virus infection, changing the individual's behavior, and, if necessary, encouraging the individual to notify persons with whom there has been contact capable of spreading HIV.

(3) "AIDS counseling" means counseling directed toward increasing the individual's understanding of acquired immunodeficiency syndrome and changing the individual's behavior.

(4) "HIV testing" means a test indicative of infection with the human immunodeficiency virus as specified by the board of health by rule.

NEW SECTION. Sec. 702. No person may undergo HIV testing without the person's consent except:

(1) Pursuant to RCW 7.70.065 for incompetent persons;

(2) In seroprevalence studies where neither the persons whose blood is being tested know the test results nor the persons conducting the tests know who is undergoing testing;

(3) If the department of labor and industries determines that it is relevant, in which case payments made under Title 51 RCW may be conditioned on the taking of an HIV antibody test; or

(4) As otherwise expressly authorized by this chapter.

NEW SECTION. Sec. 703. (1) Local health departments authorized under this chapter shall conduct or cause to be conducted pretest counseling, HIV testing, and posttest counseling of all persons:

(a) Convicted of a sexual offense under chapter 9A.44 RCW;

(b) Convicted of prostitution or offenses relating to prostitution under chapter 9A.88 RCW; or

(c) Convicted of drug offenses under chapter 69.50 RCW if the court determines at the time of conviction that the related drug offense is one associated with the use of hypodermic needles.

(2) Such testing shall be conducted as soon as possible after sentencing and shall be so ordered by the sentencing judge.

(3) This section applies only to offenses committed after the effective date of this section.

(4) A law enforcement officer, fire fighter, health care provider, health care facility staff person, or other categories of employment determined by the board in rule to be at risk of substantial exposure to HIV, who has experienced a substantial exposure to another person's bodily fluids in the course of his or her employment, may request a state or local public health officer to order pretest counseling, HIV testing, and posttest counseling for the person whose bodily fluids he or she has been exposed to. The person who is subject to the order shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual basis therefor. If the person who is subject to the order refuses to comply, the state or local public health officer may petition the superior court for a hearing. The standard of review for the order is whether substantial exposure occurred and whether that exposure presents a possible risk of transmission of the HIV virus as defined by the board by rule. Upon conclusion of the hearing, the court shall issue the appropriate order. The state or local public health officer shall perform counseling and testing under this subsection if he or she finds that the exposure was substantial and presents a possible risk as defined by the board of health by rule.

NEW SECTION. Sec. 704. Local health departments, in cooperation with the regional AIDS services networks, shall make available voluntary testing and counseling services to all persons arrested for prostitution offenses under chapter 9A.88 RCW and drug offenses under chapter 69.50 RCW. Services shall include educational materials that outline the seriousness of AIDS and encourage voluntary participation.

NEW SECTION. Sec. 705. (1) Every health care practitioner attending a pregnant woman or a person seeking treatment of a sexually transmitted disease shall insure that AIDS counseling of the patient is conducted.

(2) AIDS counseling shall be provided to each person in a drug treatment program under chapter 69.54 RCW.

NEW SECTION. Sec. 706. Jail administrators, with the approval of the local public health officer, may order pretest counseling, HIV testing, and posttest counseling for persons detained in the jail if the local public health officer determines that actual or threatened behavior presents a possible risk to the staff, general public, or other persons. Approval of the local

public health officer shall be based on section 909(3) of this act and may be contested through section 909(4) of this act. The administrator shall establish, pursuant to RCW 70.48.071, a procedure to document the possible risk which is the basis for the HIV testing. "Possible risk," as used in this section, shall be defined by the board in rule. Documentation of the behavior, or threat thereof, shall be reviewed with the person to try to assure that the person understands the basis for testing.

NEW SECTION. Sec. 707. (1) Department of corrections facility administrators may order pretest counseling, HIV testing, and posttest counseling for inmates if the secretary of corrections or the secretary's designee determines that actual or threatened behavior presents a possible risk to the staff, general public, or other inmates. The department of corrections shall establish a procedure to document the possible risk which is the basis for the HIV testing. "Possible risk," as used in this section, shall be defined by the department of corrections after consultation with the board. Possible risk, as used in the documentation of the behavior, or threat thereof, shall be reviewed with the inmate.

(2) Department of corrections administrators and superintendents who are authorized to make decisions about testing and dissemination of test information shall, at least annually, participate in training seminars on public health considerations conducted by the assistant secretary for public health or her or his designee.

(3) Administrative hearing requirements set forth in chapter 34.04 RCW do not apply to the procedure developed by the department of corrections pursuant to this section. This section shall not be construed as requiring any hearing process except as may be required under existing federal constitutional law.

(4) Section 703 of this act does not apply to the department of corrections or to inmates in its custody or subject to its jurisdiction.

NEW SECTION. Sec. 708. By January 1, 1989, the secretary of corrections shall report to the legislature on the necessity of an AIDS-related segregation policy for all facilities under the director of the secretary.

NEW SECTION. Sec. 709. The board of health shall adopt rules establishing minimum standards for pretest counseling, HIV testing, posttest counseling, and AIDS counseling.

NEW SECTION. Sec. 710. Sections 701 through 707 and 709 of this act are each added to chapter 70.24 RCW.

PART VIII
REGIONAL AIDS SERVICE NETWORKS

NEW SECTION. Sec. 801. A new section is added to chapter 70.24 RCW to read as follows:

The department shall establish a state-wide system of regional acquired immunodeficiency syndrome (AIDS) service networks as follows:

(1) The secretary of social and health services shall direct that all state or federal funds, excluding those from federal Title XIX for services or other activities authorized in this chapter, shall be allocated to the office on AIDS established in section 602 of this act. The secretary shall further direct that all funds for services and activities specified in subsection (3) of this section shall be provided to lead counties through contractual agreements based on plans developed as provided in subsection (2) of this section, unless direction of such funds is explicitly prohibited by federal law, federal regulation, or federal policy. The department shall deny funding allocations to lead counties only if the denial is based upon documented incidents of nonfeasance, misfeasance, or malfeasance. However, the department shall give written notice and thirty days for corrective action in incidents of misfeasance or nonfeasance before funding may be denied. The department shall designate six AIDS service network regions encompassing the state. In doing so, the department shall use the boundaries of the regional structures in place for the community services administration on January 1, 1988.

(2) The department shall request that a lead county within each region, which shall be the county with the largest population, prepare, through a cooperative effort of local health departments within the region, a regional organizational and service plan, which meets the requirements set forth in subsection (3) of this section. Efforts should be made to use existing plans, where appropriate. The plan should place emphasis on contracting with existing hospitals, major voluntary organizations, or health care organizations within a region that have in the past provided quality services similar to those mentioned in subsection (3) of this section and that have demonstrated an interest in providing any of the components listed in subsection (3) of this section. If any of the counties within a region do not participate, it shall be the lead county's responsibility to develop the part of the plan for the nonparticipating county or counties. If all of the counties within a region do not participate, the department shall assume the responsibility.

(3) The regional AIDS service network plan shall include the following components:

(a) A designated single administrative or coordinating agency;

(b) A complement of services to include:

(i) Voluntary and anonymous counseling and testing;

(ii) Mandatory testing and/or counseling services for certain individuals, as required by law;

(iii) Notification of sexual partners of infected persons, as required by law;

(iv) Education for the general public, health professionals, and high-risk groups;

(v) Intervention strategies to reduce the incidence of HIV infection among high-risk groups, possibly including needle sterilization and methadone maintenance;

(vi) Related community outreach services for runaway youth;

(vii) Case management;

(viii) Strategies for the development of volunteer networks;

(ix) Strategies for the coordination of related agencies within the network; and

(x) Other necessary information, including needs particular to the region;

(c) A service delivery model that includes:

(i) Case management services; and

(ii) A community-based continuum-of-care model encompassing both medical, mental health, and social services with the goal of maintaining persons with AIDS in a home-like setting, to the extent possible, in the least-expensive manner; and

(d) Budget, caseload, and staffing projections.

(4) Efforts shall be made by both the counties and the department to use existing service delivery systems, where possible, in developing the networks.

(5) The University of Washington health science program, in cooperation with the office on AIDS may, within available resources, establish a center for AIDS education, which shall be linked to the networks. The center for AIDS education is not intended to engage in state-funded research related to HIV infection, AIDS, or HIV-related conditions. Its duties shall include providing the office on AIDS with the appropriate educational materials necessary to carry out that office's duties.

(6) The department shall implement this section, consistent with available funds, by October 1, 1988, by establishing six regional AIDS service networks whose combined jurisdictions shall include the entire state.

(a) Until June 30, 1991, available funding for each regional AIDS service network shall be allocated as follows:

(i) Seventy-five percent of the amount provided for regional AIDS service networks shall be allocated per capita based on the number of persons residing within each region, but in no case less than one hundred fifty thousand dollars for each regional AIDS service network per fiscal year. This amount shall be expended for testing, counseling, education, case management, notification of sexual partners of infected persons, planning, coordination, and other services required by law, except for those enumerated in (ii) of this subsection.

(ii) Twenty-five percent of the amount provided for regional AIDS service networks shall be allocated for intervention strategies specifically addressing groups that are at a high risk of being infected with the human

immunodeficiency virus. The allocation shall be made by the office on AIDS based on documented need as specified in regional AIDS network plans.

(b) After June 30, 1991, the funding shall be allocated as provided by law. By December 15, 1990, the department shall report to the appropriate committees of the legislature on proposed methods of funding regional AIDS service networks.

(7) The regional AIDS service networks shall be the official state regional agencies for AIDS information education and coordination of services. The state public health officer, as designated by the secretary of social and health services, shall make adequate efforts to publicize the existence and functions of the networks.

(8) If the department is not able to establish a network by an agreement solely with counties, it may contract with nonprofit agencies for any or all of the designated network responsibilities.

(9) The department, in establishing the networks, shall study mechanisms that could lead to reduced costs and/or increased access to services. The methods shall include capitation.

(10) The department shall reflect in its departmental biennial budget request the funds necessary to implement this section.

(11) The department shall submit an implementation plan to the appropriate committees of the legislature by July 1, 1988.

(12) The use of appropriate materials may be authorized by regional AIDS service networks in the prevention or control of HIV infection.

NEW SECTION. Sec. 802. The department shall study the need for community residential care for persons with AIDS, including facility size, staffing, and related community health and social services, and report its finding to the appropriate committees of the legislature by December 15, 1988.

NEW SECTION. Sec. 803. To assist the secretary of social and health services in the development and implementation of AIDS programs, the governor shall appoint an AIDS advisory committee. Among its duties shall be a review of insurance problems as related to persons with AIDS. The committee shall terminate on June 30, 1991.

PART IX
CONTROL OF SEXUALLY TRANSMITTED DISEASES

NEW SECTION. Sec. 901. A new section is added to chapter 70.24 RCW to read as follows:

The legislature declares that sexually transmitted diseases constitute a serious and sometimes fatal threat to the public and individual health and welfare of the people of the state. The legislature finds that the incidence of sexually transmitted diseases is rising at an alarming rate and that these diseases result in significant social, health, and economic costs, including

infant and maternal mortality, temporary and lifelong disability, and premature death. The legislature further finds that sexually transmitted diseases, by their nature, involve sensitive issues of privacy, and it is the intent of the legislature that all programs designed to deal with these diseases afford patients privacy, confidentiality, and dignity. The legislature also finds that medical knowledge and information about sexually transmitted diseases are rapidly changing. It is therefore the intent of the legislature to provide a program that is sufficiently flexible to meet emerging needs, deals efficiently and effectively with reducing the incidence of sexually transmitted diseases, and provides patients with a secure knowledge that information they provide will remain private and confidential.

NEW SECTION. Sec. 902. A new section is added to chapter 49.60 RCW to read as follows:

(1) For the purposes of determining whether an unfair practice under this chapter has occurred, claims of discrimination based on actual or perceived HIV infection shall be evaluated in the same manner as other claims of discrimination based on sensory, mental, or physical handicap.

(2) Subsection (1) of this section shall not apply to transactions with insurance entities, health service contractors, or health maintenance organizations subject to RCW 49.60.030 (1)(e) or 49.60.178 to prohibit fair discrimination on the basis of actual HIV infection status when bona fide statistical differences in risk or exposure have been substantiated.

(3) For the purposes of this chapter, "HIV" means the human immunodeficiency virus, and includes all HIV and HIV-related viruses which damage the cellular branch of the human immune system and leave the infected person immunodeficient.

NEW SECTION. Sec. 903. A new section is added to chapter 49.60 RCW to read as follows:

(1) No person may require an individual to take an HIV test, as defined in chapter 70.24 RCW, as a condition of hiring, promotion, or continued employment unless the absence of HIV infection is a bona fide occupational qualification for the job in question.

(2) No person may discharge or fail or refuse to hire any individual, or segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the results of an HIV test unless the absence of HIV infection is a bona fide occupational qualification of the job in question.

(3) The absence of HIV infection as a bona fide occupational qualification exists when performance of a particular job can be shown to present a significant risk, as defined by the board of health by rule, of transmitting

HIV infection to other persons, and there exists no means of eliminating the risk by restructuring the job.

(4) For the purpose of this chapter, any person who is actually infected with HIV, but is not disabled as a result of the infection, shall not be eligible for any benefits under the affirmative action provisions of chapter 49.74 RCW solely on the basis of such infection.

(5) Employers are immune from civil action for damages arising out of transmission of HIV to employees or to members of the public unless such transmission occurs as a result of the employer's gross negligence.

NEW SECTION. Sec. 904. A new section is added to chapter 70.24 RCW to read as follows:

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this chapter.

(2) No person may disclose or be compelled to disclose the identity of any person upon whom a test for a sexually transmitted disease is performed, or the results of such a test or any information relating to diagnosis of or treatment for a sexually transmitted disease in a manner which permits identification of the subject of the test, diagnosis, or treatment except to the following persons:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

(b) Any person who secures a specific release of test results executed by the subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

(c) The state public health officer, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(d) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that provided prior to the effective date of this section, for the purpose of artificial insemination; or (iii) blood specimens;

(e) Any state or local public health officer conducting an investigation pursuant to section 909 of this act, provided that such record was obtained by means of court ordered HIV testing pursuant to section 703 or 909 of this act;

(f) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician–patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure shall: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician–patient relationship, and the treatment services, including but not limited to the written statement set forth in subsection (5) of this section;

(g) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in section 906 of this act, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(h) A law enforcement officer, fire fighter, health care provider, health care facility staff person, or other persons as defined by the board in rule pursuant to section 703(4) of this act, who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to section 703(4) of this act, if a state or local public health officer performs the test; and

(i) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self–funded health plan, state–administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection shall be confidential and shall not be released or available to persons who are not involved in handling or determining medical claims payment.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender, except as provided in subsection (2)(e) of this section, shall be governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender shall be made available by department of corrections health

care providers to a department of corrections superintendent or administrator as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of correction's jurisdiction.

(b) The sexually transmitted disease status of a person detained in a jail shall be made available by the local public health officer to a jail administrator as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities.

(c) Information regarding a department of corrections offender's sexually transmitted disease status is confidential and may be disclosed by a correctional superintendent or administrator or local jail administrator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to any other penalties as may be prescribed by law.

(5) Whenever disclosure is made pursuant to this section, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied or followed by such a notice within ten days.

NEW SECTION. Sec. 905. A new section is added to chapter 70.24 RCW to read as follows:

The board shall establish reporting requirements for sexually transmitted diseases by rule. Reporting under this section may be required for such sexually transmitted diseases included under this chapter as the board finds appropriate.

NEW SECTION. Sec. 906. A new section is added to chapter 70.24 RCW to read as follows:

(1) The board shall adopt rules authorizing interviews and the state and local public health officers and their authorized representatives may interview, or cause to be interviewed, all persons infected with a sexually transmitted disease and all persons who, in accordance with standards adopted by the board by rule, are reasonably believed to be infected with such diseases for the purpose of investigating the source and spread of the diseases and for the purpose of ordering a person to submit to examination, counseling, or treatment as necessary for the protection of the public health and safety, subject to section 909 of this act.

(2) State and local public health officers or their authorized representatives shall investigate identified partners of persons infected with sexually transmitted diseases in accordance with procedures prescribed by the board.

(3) All information gathered in the course of contact investigation pursuant to this section shall be considered confidential.

(4) No person contacted under this section or reasonably believed to be infected with a sexually transmitted disease who reveals the name or names of sexual contacts during the course of an investigation shall be held liable in a civil action for such revelation, unless the revelation is made with a knowing or reckless disregard for the truth.

(5) Any person who knowingly or maliciously disseminates any false information or report concerning the existence of any sexually transmitted disease under this section is guilty of a gross misdemeanor punishable as provided under RCW 9A.20.021.

Sec. 907. Section 6, chapter 114, Laws of 1919 and RCW 70.24.050 are each amended to read as follows:

Diagnosis of a sexually transmitted disease in every instance must be confirmed by laboratory tests or examinations in a laboratory approved or conducted in accordance with procedures and such other requirements as may be established by the ((state)) board ((~~of health, before any person shall be isolated or committed to quarantine and before any person committed to quarantine shall be discharged therefrom~~)). Laboratories testing for HIV shall report anonymous HIV prevalence results to the department, for health statistics purposes, in a manner established by the board.

Sec. 908. Section 8, chapter 114, Laws of 1919 and RCW 70.24.070 are each amended to read as follows:

For the purpose of carrying out ((~~the provisions of~~)) this ((~~act~~)) chapter, the ((~~state~~)) board ((~~of health~~)) shall have the power and authority((~~; from time to time, to divide the state into such number of quarantine districts consisting of one or more counties or parts of counties or municipalities as it shall deem expedient, and to establish at such place or places as it shall deem necessary quarantine stations and clinics~~)) to designate facilities for the detention and treatment of persons found to be infected with a sexually transmitted disease and to ((~~establish~~)) designate any such ((~~quarantine station and clinic in connection with any county or city jail, or~~)) facility in any hospital or other public or private institution, other than a jail or correctional facility, having, or which may be provided with, such necessary detention, segregation, isolation, clinic and hospital facilities as may be required and prescribed by the board, and to enter into arrangements for the conduct of such ((~~quarantine stations and clinics~~)) facilities with the public officials or persons, associations, or corporations in charge of or maintaining and operating such institutions.

NEW SECTION. Sec. 909. A new section is added to chapter 70.24 RCW to read as follows:

(1) Subject to the provisions of this chapter, the state and local public health officers or their authorized representatives may examine and counsel or cause to be examined and counseled persons reasonably believed to be infected with or to have been exposed to a sexually transmitted disease.

(2) Orders or restrictive measures directed to persons with a sexually transmitted disease shall be used as the last resort when other measures to protect the public health have failed, including reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the person who may be subject to such an order. The orders and measures shall be applied serially with the least intrusive measures used first. The burden of proof shall be on the state or local public health officer to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.

(3) When the state or local public health officer within his or her respective jurisdiction knows or has reason to believe, because of direct medical knowledge or reliable testimony of others in a position to have direct knowledge of a person's behavior, that a person has a sexually transmitted disease and is engaging in specified conduct, as determined by the board by rule based upon generally accepted standards of medical and public health science, that endangers the public health, he or she shall conduct an investigation in accordance with procedures prescribed by the board to evaluate the specific facts alleged, if any, and the reliability and credibility of the person or persons providing such information and, if satisfied that the allegations are true, he or she may issue an order according to the following priority to:

(a) Order a person to submit to a medical examination or testing, seek counseling, or obtain medical treatment for curable diseases, or any combination of these, within a period of time determined by the public health officer, not to exceed fourteen days.

(b) Order a person to immediately cease and desist from specified conduct which endangers the health of others by imposing such restrictions upon the person as are necessary to prevent the specified conduct that endangers the health of others only if the public health officer has determined that clear and convincing evidence exists to believe that such person has been ordered to report for counseling as provided in (a) of this subsection and continues to demonstrate behavior which endangers the health of others. Any restriction shall be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed three months, during which the order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health.

Restrictions shall be imposed in the least-restrictive manner necessary to protect the public health.

(4) (a) Upon the issuance of any order by the state or local public health officer or an authorized representative pursuant to subsection (3) of this section or section 703(4) of this act, such public health officer shall give written notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order, and notifying the person who is the subject of the order that, if he or she contests the order, he or she may appear at a judicial hearing on the enforceability of the order, to be held in superior court. He or she may have an attorney appear on his or her behalf in the hearing at public expense, if necessary. The hearing shall be held within seventy-two hours of receipt of the notice, unless the person subject to the order agrees to comply. If the person contests the order, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to this subsection. If the person does not contest the order within seventy-two hours of receiving it, and the person does not comply with the order within the time period specified for compliance with the order, the state or local public health officer may request a warrant be issued by the superior court to insure appearance at the hearing. The hearing shall be within seventy-two hours of the expiration date of the time specified for compliance with the original order. The burden of proof shall be on the public health officer to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed therein are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order.

(b) If the superior court dismisses the order of the public health officer, the fact that the order was issued shall be expunged from the records of the department or local department of health.

(5) Any hearing conducted pursuant to this section shall be closed and confidential unless a public hearing is requested by the person who is the subject of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by the order of the court.

NEW SECTION. Sec. 910. A new section is added to chapter 70.24 RCW to read as follows:

(1) When the procedures of section 909 of this act have been exhausted and the state or local public health officer, within his or her respective jurisdiction, knows or has reason to believe, because of medical information,

that a person has a sexually transmitted disease and that the person continues to engage in behaviors that present an imminent danger to the public health as defined by the board by rule based upon generally accepted standards of medical and public health science, the public health officer may bring an action in superior court to detain the person in a facility designated by the board for a period of time necessary to accomplish a program of counseling and education, excluding any coercive techniques or procedures, designed to get the person to adopt nondangerous behavior. In no case may the period exceed ninety days under each order. The board shall establish, by rule, standards for counseling and education under this subsection. The public health officer shall request the prosecuting attorney to file such action in superior court. During that period, reasonable efforts will be made in a noncoercive manner to get the person to adopt nondangerous behavior.

(2) If an action is filed as outlined in subsection (1) of this section, the superior court, upon the petition of the prosecuting attorney, shall issue other appropriate court orders including, but not limited to, an order to take the person into custody immediately, for a period not to exceed seventy-two hours, and place him or her in a facility designated or approved by the board. The person who is the subject of the order shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order, and notifying the person that if he or she refuses to comply with the order he or she may appear at a hearing to review the order and that he or she may have an attorney appear on his or her behalf in the hearing at public expense, if necessary. If the person contests testing or treatment, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to subsection (3) of this section.

(3) The hearing shall be conducted no later than forty-eight hours after the receipt of the order. The person who is subject to the order has a right to be present at the hearing and may have an attorney appear on his or her behalf in the hearing, at public expense if necessary. If the order being contested includes detention for a period of fourteen days or longer, the person shall also have the right to a trial by jury upon request. Upon conclusion of the hearing or trial by jury, the court shall issue appropriate orders.

The court may continue the hearing upon the request of the person who is subject to the order for good cause shown for no more than five additional judicial days. If a trial by jury is requested, the court, upon motion, may continue the hearing for no more than ten additional judicial days.

During the pendency of the continuance, the court may order that the person contesting the order remain in detention or may place terms and conditions upon the person which the court deems appropriate to protect public health.

(4) The burden of proof shall be on the state or local public health officer to show by clear and convincing evidence that grounds exist for the issuance of any court order pursuant to subsection (2) or (3) of this section. If the superior court dismisses the order, the fact that the order was issued shall be expunged from the records of the state or local department of health.

(5) Any hearing conducted by the superior court pursuant to subsection (2) or (3) of this section shall be closed and confidential unless a public hearing is requested by the person who is the subject of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by order of the court.

(6) Any order entered by the superior court pursuant to subsection (1) or (2) of this section shall impose terms and conditions no more restrictive than necessary to protect the public health.

Sec. 911. Section 5, chapter 114, Laws of 1919 and RCW 70.24.080 are each amended to read as follows:

Any person who shall violate any of the provisions of this ((~~act~~)) chapter or any lawful rule ((~~or regulation made~~)) adopted by the ((~~state~~)) board ((~~of health~~)) pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal public health officer, pursuant to the authority granted in this ((~~act~~)) chapter, shall be deemed guilty of a gross misdemeanor punishable as provided under RCW 9A.20.021.

Sec. 912. Section 1, chapter 164, Laws of 1969 ex. sess. and RCW 70-.24.110 are each amended to read as follows:

A minor fourteen years of age or older who may have come in contact with any ((~~venereal~~)) sexually transmitted disease or suspected ((~~venereal~~)) sexually transmitted disease may give consent to the furnishing of hospital, medical and surgical care related to the diagnosis or treatment of such disease. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize hospital, medical and surgical care related to such disease and such parent, parents, or legal guardian shall not be liable for payment for any care rendered pursuant to this section.

Sec. 913. Section 1, chapter 59, Laws of 1977 and RCW 70.24.120 are each amended to read as follows:

((~~Venereal~~)) Sexually transmitted disease case investigators, upon specific authorization from a ((~~doctor~~)) physician, are hereby authorized to

perform venipuncture or skin puncture on a person for the sole purpose of withdrawing blood for use in ((~~venereal~~)) sexually transmitted disease tests.

The term "((~~venereal~~)) sexually transmitted disease case investigator" shall mean only those persons who:

(1) Are employed by public health authorities; and

(2) Have been trained by a ((~~doctor~~)) physician in proper procedures to be employed when withdrawing blood in accordance with training requirements established by the department of social and health services; and

(3) Possess a statement signed by the instructing ((~~doctor~~)) physician that the training required by subsection (2) of this section has been successfully completed.

The term "((~~doctor~~)) physician" means any person licensed under the provisions of chapters 18.57 or 18.71 RCW.

NEW SECTION. Sec. 914. A new section is added to chapter 70.24 RCW to read as follows:

(1) Any person aggrieved by a violation of this chapter shall have a right of action in superior court and may recover for each violation:

(a) Against any person who negligently violates a provision of this chapter, one thousand dollars, or actual damages, whichever is greater, for each violation.

(b) Against any person who intentionally or recklessly violates a provision of this chapter, two thousand dollars, or actual damages, whichever is greater, for each violation.

(c) Reasonable attorneys' fees and costs.

(d) Such other relief, including an injunction, as the court may deem appropriate.

(2) Any action under this chapter is barred unless the action is commenced within three years after the cause of action accrues.

(3) Nothing in this chapter limits the rights of the subject of a test for a sexually transmitted disease to recover damages or other relief under any other applicable law.

(4) Nothing in this chapter may be construed to impose civil liability or criminal sanction for disclosure of a test result for a sexually transmitted disease in accordance with any reporting requirement for a diagnosed case of sexually transmitted disease by the department or the centers for disease control of the United States public health service.

NEW SECTION. Sec. 915. A new section is added to chapter 70.24 RCW to read as follows:

The board shall adopt such rules as are necessary to implement and enforce this chapter. Rules may also be adopted by the department of social and health services or the department of licensing for the purposes of this chapter. The rules may include procedures for taking appropriate action, in addition to any other penalty under this chapter, with regard to health care facilities or health care providers which violate this chapter or the rules

adopted under this chapter. The rules shall prescribe stringent safeguards to protect the confidentiality of the persons and records subject to this chapter. The procedures set forth in chapter 34.04 RCW apply to the administration of this chapter, except that in case of conflict between chapter 34.04 RCW and this chapter, the provisions of this chapter shall control.

Sec. 916. Section 5, chapter 257, Laws of 1986 as amended by section 2, chapter 324, Laws of 1987 and RCW 9A.36.021 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or

(e) With intent to inflict bodily harm, exposes or transmits human immunodeficiency virus as defined in chapter 70.24 RCW; or

(f) With intent to commit a felony, assaults another.

(2) Assault in the second degree is a class B felony.

NEW SECTION. Sec. 917. A new section is added to chapter 70.24 RCW to read as follows:

It is unlawful for any person who has a sexually transmitted disease, except HIV infection, when such person knows he or she is infected with such a disease and when such person has been informed that he or she may communicate the disease to another person through sexual intercourse, to have sexual intercourse with any other person, unless such other person has been informed of the presence of the sexually transmitted disease.

NEW SECTION. Sec. 918. A new section is added to chapter 70.24 RCW to read as follows:

Members of the state board of health and local boards of health, public health officers, and employees of the department of social and health services and local health departments are immune from civil action for damages arising out of the good faith performance of their duties as prescribed by this chapter, unless such performance constitutes gross negligence.

NEW SECTION. Sec. 919. A new section is added to chapter 70.24 RCW to read as follows:

Nothing in this chapter may be construed to require additional local funding of programs to treat communicable disease established as of the effective date of this section.

NEW SECTION. Sec. 920. A new section is added to chapter 70.24 RCW to read as follows:

Nothing in this chapter is intended to create a state-mandated liberty interest of any nature for offenders or inmates confined in department of corrections facilities or subject to the jurisdiction of the department of corrections.

NEW SECTION. Sec. 921. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 114, Laws of 1919 and RCW 70.24.010;

(2) Section 2, chapter 114, Laws of 1919 , section 93, chapter 141, Laws of 1979 and RCW 70.24.020;

(3) Section 3, chapter 114, Laws of 1919 and RCW 70.24.030;

(4) Section 4, chapter 114, Laws of 1919 and RCW 70.24.040; and

(5) Section 7, chapter 114, Laws of 1919, section 94, chapter 141, Laws of 1979 and RCW 70.24.060.

NEW SECTION. Sec. 922. Sections 916 and 917 of this act shall take effect July 1, 1988.

PART X
MISCELLANEOUS

NEW SECTION. Sec. 1001. 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. 1002. Except as otherwise specifically provided, 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, 1988.
Passed the House March 10, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 207

[Engrossed Substitute Senate Bill No. 6124]

RURAL HEALTH CARE COMMISSION—MEDICARE HEALTH CARE FACILITY CERTIFICATION OPTIONS

AN ACT Relating to rural health care; adding a new section to chapter 70.14 RCW; creating new sections; making an appropriation; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds and declares that the social and economic well-being of the people of rural areas of

Washington is closely related to the state's rural health care delivery system. Demographic, economic, and financial changes have greatly affected the viability of rural health care providers. These providers include, but are not limited to, hospitals, health clinics, community clinics, nursing homes, home health providers, and individual providers. The problems faced by rural health care providers include erratic fluctuations or general decline in rural economies, the aging of the rural population, older physical plants, lack of health care professionals, and inappropriate or burdensome regulations, facility standards, and licensure requirements.

(2) Rural health providers help ensure access to and the availability of preventive, primary, and emergency health care services to rural residents and tourist populations in rural areas. A large percentage of rural health resources are used to provide services to government-sponsored patients. The availability of health care services in rural areas is essential to the integrity of the medicare and medicaid programs;

(3) Rural health providers affect the economic well-being of rural areas. Not only are these facilities a source of employment for rural residents, but also the existence of health care services in a rural community is important to its economic development and ability to attract businesses;

(4) Government regulations and standards for facility and professional licensure and certification are typically appropriate to urban facilities and are, in some cases, inordinately burdensome for rural health care facilities. Such regulations and standards can create barriers to the delivery of innovative, efficient, and cost-effective health care services to better meet the health needs of the rural communities; and

(5) The changing environment in health care delivery has changed how and where health care is provided and includes an increased emphasis on outpatient services, preventive care, home health care, and community-based care. Rural communities need to consider restructuring the delivery of health care services to insure continued availability of adequate community-based health care. Coordination among providers is essential to facilitate the planning necessary to maintain a viable health care delivery system within rural areas of the state.

NEW SECTION. Sec. 2. (1) There is created the Washington rural health care commission composed of eleven members; two members shall be the chair and ranking minority member from the senate health care and corrections committee and two members shall be the chair and ranking minority member from the house of representatives health care committee.

(2) The legislative members of the commission shall select seven public members, to serve on the commission, that are representative of rural health care professionals, rural health care providers, those directly involved in the purchase, provision, or delivery of rural health care services, industry, consumers, and those knowledgeable of the ethical issues involved with rural

health care public policy. The chairs of the senate health care and corrections committee and the house of representatives health care committee shall jointly chair the commission. The ranking minority members of these committees shall jointly vice-chair the commission. The legislative members shall serve as the executive committee.

(3) 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 department of community development, 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.

(4) 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.

(5) 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. To the extent possible, the department of social and health services, the department of community development, the department of trade and economic development, the department of employment security, the state health coordinating council, and other state agencies shall assist the commission in performing its responsibilities.

(6) The commission shall:

(a) Review current statutes and regulations governing the provision of rural health services, including the licensure, certification, and operation of rural health providers, including hospitals, health districts, rural health clinics, rural community health centers, and rural ambulatory surgical centers. The purpose of the review shall be to identify barriers to cost-effective and efficient health care delivery that are created by statute or regulation. The review shall include, but not be limited to:

(i) Licensure and certification survey processes conducted by both federal and state agencies;

(ii) Processes for review and approval of proposed facility construction or remodeling or establishing new services;

(iii) Mandated personnel requirements; and

(iv) Mandatory information gathering and reporting requirements;

(b) Review issues that affect the current delivery of rural health care. This review shall include, but not be limited to:

(i) Determination of basic health care services to be available to rural residents;

(ii) The need for and availability of emergency and nonemergency transportation to medical care facilities;

(iii) The need for and availability of appropriate health care providers;

(iv) Health care financing;

(v) Coordination among private and public health care providers on a local, regional, and state-wide basis; and

(vi) Use of modern telecommunications between rural and regional and urban medical care centers to facilitate better diagnosis and treatment of patients in rural facilities and for use in training rural health care providers;

(c) Establish operational guidelines or standards for a model alternative rural health facility. The standards shall include, but are not limited to:

(i) The basic array of health services that is appropriate in rural areas;

(ii) Minimum staffing requirements for safe, efficient, and effective operation of these services, commensurate with community practice standards; and

(iii) Other such requirements for operation as the commission deems appropriate to establish minimum standards for licensure;

(d) Develop measurements of the economic impact of rural health care facilities on the communities that they serve. The purpose of the study shall be to establish the role health facilities play in determining the economic viability and development of rural communities;

(e) Review the impact of existing government payment policies and methods on rural health facilities. The purpose of the review shall be to identify current payment practices or standards, make recommendations for change as appropriate, and establish guidelines for payment to model rural health facilities as described in this section; and

(f) Recommend, as deemed appropriate by the commission, that the department of social and health services convey to the federal health care financing administration interest in testing new models of institutional health care delivery in rural areas, and seek such waivers as may be necessary and appropriate to such demonstrations.

(7) The commission shall coordinate its activities with the study of trauma care services authorized by Second Substitute House Bill No. 1713 and other health care policy studies conducted during the commission's term.

(8) The commission shall submit a report to the appropriate committees of the legislature by December 1, 1988. The report shall include such findings of the commission as are related to the responsibilities identified in this section. The report shall make recommendations to the legislature regarding changes to licensure, certification, and payment systems that will

enhance the likelihood that high quality rural health care delivery occurs in a cost-effective and efficient manner.

NEW SECTION. Sec. 3. A new section is added to chapter 70.14 RCW to read as follows:

The department of social and health services shall compile and make available to the public information regarding medicare health care facility certification options available to hospitals licensed under this title that desire to convert to nonhospital health care facilities. The information provided shall include standards and requirements for certification and procedures for acquiring certification.

NEW SECTION. Sec. 4. The department of community development, department of trade and economic development, department of employment security, and department of social and health services are expected to use their present resources and staffing to carry out the requirements of this act.

NEW SECTION. Sec. 5. Sections 1 and 2 of this act shall expire on December 31, 1988.

NEW SECTION. Sec. 6. The sum of ten thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the general fund to the Washington rural health care commission for the purposes identified in this act. The senate facilities and operations committee may authorize expenditures for necessary expenses directly related to commission activities.

NEW SECTION. Sec. 7. Sections 1 and 2 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 10, 1988.
Passed the House March 10, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 208

[Substitute Senate Bill No. 6437]

NURSING HOMES—LEASES—RETURN ON INVESTMENT

AN ACT Relating to the return on investment allowance for nursing homes; and amending RCW 74.46.360.

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

Sec. 1. Section 36, chapter 177, Laws of 1980 as amended by section 1, chapter 175, Laws of 1986 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~~)) any contractor, such accumulated depreciation to be measured in accordance with subsections (2), (3), and (4) of this section and RCW 74.46.350 and 74.46.370. If the department challenges the historical cost of an asset, or if the contractor cannot or will not provide the historical costs, the department will have the department of general administration, through an appraisal procedure, determine the fair market value of the assets at the time of purchase. The depreciation base of the assets will not exceed such fair market value.

(2) The historical cost of donated assets, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death; or

(b) The historical cost base of the owner last contracting with the department, if any.

(3) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

(4) (a) Where depreciable assets are acquired that were used in the medical care program subsequent to January 1, 1980, the depreciation base of the assets will not exceed the net book value which did exist or would have existed had the assets continued in use under the previous contract with the department; except that depreciation shall not be assumed to accumulate during periods when the assets were not in use in or as a facility.

(b) The provisions of (a) of this subsection shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the ownership of the assets has been previously transferred in an arm's-length transaction nor to the first arm's-length acquisition that occurs after January 1, 1980, for facilities participating in the medical care program prior to January 1, 1980. The new depreciation base for such acquisitions shall not exceed the fair market value of the assets as determined by the department of general administration through an appraisal procedure. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious. This subsection is inoperative for any transfer of ownership of any asset occurring on or after July 18, 1984, leaving (a) of this subsection to apply alone to such transfers: PROVIDED, HOWEVER, That this subsection shall apply to transfers of ownership of assets occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under medicaid cost reimbursement on an owner-operated basis or as a related-party lease.

(c) In the case of assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option:

(i) To have the provisions of subsection (b) of this section apply to the purchase; or

(ii) To have the reimbursement for property and return on investment continue to be calculated pursuant to the provisions contained in RCW 74-.46.530 (e) and (f) based upon the provisions of the lease in existence on the date of the purchase, but only if the purchase date meets one of the following criteria:

(A) The purchase date is after the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(B) The purchase date is within one year of the lease expiration or renewal date contained in the lease;

(C) The purchase date is after a rate setting for the facility in which the reimbursement rate set pursuant to this chapter no longer is equal to or greater than the actual cost of the lease; or

(D) The purchase date is within one year of any purchase option in existence on January 1, 1988.

(d) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

((~~(d)~~)) (e) Where the depreciable asset is a donation or distribution between related organizations, the base shall be the lesser of (i) fair market value, less salvage value, or (ii) the depreciation base the related organization had or would have had for the asset under a contract with the department.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 209

[Engrossed House Bill No. 1346]

AMATEUR RADIO ELECTRONIC REPEATER SITES—LEASE OF STATE LANDS

AN ACT Relating to leasing communication sites on state lands for emergency and public service communications; adding new sections to chapter 79.12 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. The department of natural resources leases state lands and space on towers located on state lands to amateur radio operators for their repeater stations. These sites are necessary to maintain

emergency communications for public safety and for use in disaster relief and search and rescue support.

The licensed amateur radio operators of the state provide thousands of hours of public communications service to the state every year. Their communication network spans the entire state, based in individual residences and linked across the state through a series of mountain-top repeater stations. The amateur radio operators install and maintain their radios and the electronic repeater stations at their own expense. The amateur radio operators who use their equipment to perform public services should not bear the sole responsibility for supporting the electronic repeater stations.

In recognition of the essential role performed by the amateur radio operators in emergency communications, the legislature intends to reduce the rental fee paid by the amateur radio operators while assuring the department of natural resources full market rental for the use of state-owned property.

NEW SECTION. Sec. 2. The department of natural resources shall determine the lease rate for amateur radio electronic repeater sites and units available for public service communication. For the first repeater unit placed at a department communication site by an amateur radio lessee eligible for a reduced rate under this section, the lessee shall pay fifty percent of the amateur radio rental established by the department. For any subsequent repeater unit placed at the same facility by an eligible amateur radio lessee, the lessee shall pay twenty-five percent of the rental established by the department.

The amateur radio regulatory authority approved by the federal communication commission shall assign the radio frequencies used by amateur radio lessees. The department shall develop guidelines to determine which lessees are to receive reduced rental fees as moneys are available by legislative appropriation to pay a portion of the rent for electronic repeaters operated by amateur radio operators.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are each added to chapter 79.12 RCW.

NEW SECTION. Sec. 4. There is appropriated from the state general fund to the department of natural resources for the biennium ending June 30, 1989, the sum of two thousand eight hundred dollars, or so much thereof as may be necessary, to pay that portion of the rent not paid by the lessees for electronic repeaters operated by amateur radio operators.

Passed the House March 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 210

[Substitute Senate Bill No. 5558]

WASHINGTON SCHOLARS PROGRAM—RECIPIENTS MAY ATTEND PRIVATE COLLEGES OR UNIVERSITIES

AN ACT Relating to the Washington scholars program; amending RCW 28A.58.822; adding new sections to chapter 28B.80 RCW; and creating a new section.

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

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

(1) Recipients of the Washington scholars award under RCW 28A.58-.820 through 28A.58.830 choosing to attend an independent college or university in this state, as defined in subsection (4) of this section, may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants shall be contingent upon the private institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the independent college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for grants for a maximum of twelve quarters or eight semesters of undergraduate study and may transfer among independent colleges and universities during that period and continue to receive the grant. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of the effective date of this section and other institutions as may be developed that are approved by the higher education coordinating

board as meeting equivalent standards as those institutions accredited under this section.

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

Students receiving grants under section 1 of this act or waivers under RCW 28B.15.543 shall be entitled to transfer between public and independent colleges or universities. Students transferring to a public institution of higher education from an independent college or university are entitled to a tuition waiver while enrolled at such institution during the period of eligibility under RCW 28B.15.543. Students transferring to an independent college or university from a public institution of higher education are entitled to a grant under section 1 of this act while enrolled at such college or university during the period of eligibility under section 1 of this act. The total grants or waivers for any one student shall not exceed twelve quarters or eight semesters of undergraduate study.

NEW SECTION. Sec. 3. Section 1 of this act shall apply to persons holding the Washington scholars award as of the effective date of this section as well as persons holding the award after the effective date of this section.

Sec. 4. Section 2, chapter 54, Laws of 1981 as amended by section 1, chapter 465, Laws of 1987 and RCW 28A.58.822 are each amended to read as follows:

There is established by the legislature of the state of Washington the Washington state scholars program. The purposes of this program annually are to:

(1) Provide for the selection of three seniors graduating from high schools in each legislative district who have distinguished themselves academically among their peers.

(2) Maximize public awareness of the academic achievement, leadership ability, and community contribution of Washington state public and private high school seniors through appropriate recognition ceremonies and events at both the local and state level.

(3) Provide a listing of the Washington scholars to all Washington state public and private colleges and universities to facilitate communication regarding academic programs and scholarship availability.

(4) Make available a state level mechanism for utilization of private funds for scholarship awards to outstanding high school seniors.

(5) Provide, on written request and with student permission, a listing of the Washington scholars to private scholarship selection committees for notification of scholarship availability.

(6) Permit a waiver of tuition and services and activities fees as provided for in RCW 28B.15.543 and grants under section 1 of this 1988 act.

Passed the Senate March 9, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 211

[Engrossed Substitute House Bill No. 1404]

NURSING—STUDY METHODS TO MAKE PROFESSION MORE ATTRACTIVE—LICENSURE REVISIONS

AN ACT Relating to nursing; amending RCW 18.78.050, 18.88.150, 18.88.080, 18.78.060, 18.88.190, 18.88.200, and 18.88.220; adding new sections to chapter 18.78 RCW; adding a new section to chapter 18.88 RCW; 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 legislature recognizes the need to increase the pool of available nursing resources to meet new demands on the health care delivery system. The more complex nature of illnesses, constraints on reimbursement pressuring accelerated treatment and earlier patient discharge, the explosion of technology, and the parameters established by third-party payers requiring intense monitoring, may be diverting nurses from the bedside into early burnout, retirement, or employment elsewhere.

The state's nursing educational program, encompassing nursing assistants, licensed practical nurses, and licensed (registered) nurses should be better articulated for career mobility in order to make the nursing profession more attractive to individuals and for retaining qualified nurses in the health care delivery system. Barriers to licensure and employment should be eliminated to increase the number of nurses available for patient care.

The legislature declares this act is in the interest of the public health, safety, and welfare.

NEW SECTION. Sec. 2. The state board of nursing, in consultation with the state board of practical nursing, the superintendent of public instruction, vocational education agencies, the state board for community college education, and the higher education coordinating board, shall:

(1) Investigate current education programs for nurses in all settings, such as high schools, vocational-technical schools, community colleges, and universities, to identify the scope of nursing education programs in the state;

(2) Develop, for the purpose of approving nursing education programs for applicants for licensure, a model for articulation and career mobility to enable nurses at every level of the profession to progress to higher levels and advance their professional status by integrating into a recognized nursing curriculum;

(3) Develop innovative nursing education programs that include flexibility in classroom hours, in education program schedules, and through satellite locations so that individuals throughout the state have greater access to a nursing education program; and

(4) Investigate and support innovative models in clinical practice settings for the organization and delivery of nursing services.

The board of nursing shall present its final findings and recommendations to the legislature by January 1, 1989, with a work plan for this study to be submitted to the legislature in August, 1988.

NEW SECTION. Sec. 3. A new section is added to chapter 18.78 RCW to read as follows:

An applicant holding a credential in another state may be licensed by endorsement to practice in this state without examination if the board determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

Sec. 4. Section 5, chapter 222, Laws of 1949, as last amended by section 129, chapter 259, Laws of 1986 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 may adopt rules or issue advisory opinions in response to questions from professional health associations, health care practitioners, and consumers in this state concerning licensed practical nurse practice. The board shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years inactive or lapsed status.

The board shall adopt such rules as are necessary to fulfill the purposes of this chapter pursuant to chapter 34.04 RCW.

Sec. 5. Section 15, chapter 202, Laws of 1949 as last amended by section 14, chapter 133, Laws of 1973 and RCW 18.88.150 are each amended to read as follows:

Upon board approval of the application, the department shall issue a license by endorsement to practice nursing as a registered nurse without examination to an applicant who ((~~has been~~)) is duly licensed as a registered nurse by examination under the laws of another state, territory or possession of the United States.

An applicant graduated from a school of nursing 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 examinations as determined by the board.

**Sec. 6. Section 6, chapter 222, Laws of 1949 as last amended by section 8, chapter 55, Laws of 1983 and RCW 18.78.060 are each amended to read as follows:*

An applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence, on a form provided by the board, verified under oath, that the applicant:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Is of good physical and mental health;

(4) Has completed at least a tenth grade course or its equivalent, as determined by the board;

(5) Has completed an approved program of not less than nine months for the education of practical nurses, or its equivalent, as determined by the board.

To be licensed as a practical nurse, each applicant shall be required to pass an examination in such subjects as the board may determine within the scope of and commensurate with the work to be performed by a licensed practical nurse. Upon approval by the board, the department shall issue an interim permit authorizing the applicant to practice nursing as authorized under this chapter pending notification of the results of the first licensing examination following verification of satisfactory completion of an approved program of practical nursing. Any applicant failing to pass such an examination may apply for reexamination. If the applicant fails the examination, the interim permit expires upon notification and is not renewable. Upon passing such examination as determined by the board, the director shall issue to the applicant a license to practice as a licensed practical nurse, providing the license fee is paid by the applicant and the applicant meets all other requirements of the board.

**Sec. 6 was vetoed, see message at end of chapter.*

**NEW SECTION. Sec. 7. Section 6 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 April 1, 1988. The director of licensing may immediately take such steps as are necessary to ensure that section 6 of this act is implemented on its effective date.*

**Sec. 7 was vetoed, see message at end of chapter.*

Sec. 8. Section 8, chapter 202, Laws of 1949 as last amended by section 50, chapter 287, Laws of 1984 and RCW 18.88.080 are each amended to read as follows:

The board may adopt such rules and regulations not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions

of this chapter. The board shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensure under this chapter. It shall keep a record of all its proceedings and make such reports to the governor as may be required. The board shall define by regulation what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing professions. The board may adopt regulations or issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners, and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

The board shall approve such schools of nursing as meet the requirements of this chapter and the board, and the board shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The board shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years ((~~nonpracticing~~)) inactive or lapsed status. The board shall establish criteria for licensure by endorsement. The board shall examine all applications for registration under this chapter, and shall certify to the director for licensing duly qualified applicants.

The department shall furnish to the board such secretarial, clerical and other assistance as may be necessary to effectively administer the provisions of this chapter. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 while away from home, be compensated in accordance with RCW 43.03.240.

Sec. 9. Section 19, chapter 202, Laws of 1949 as last amended by section 69, chapter 7, Laws of 1985 and RCW 18.88.190 are each amended to read as follows:

Every license issued under the provisions of this chapter, whether in an active or inactive status, shall be renewed, except as hereinafter provided. ((~~The board shall by regulation establish requirements of continuing nursing education as a condition of license renewal: PROVIDED, That membership in an organization shall not be a prerequisite or condition to the fulfillment of any continuous education requirement established as provided herein: PROVIDED FURTHER, That the board shall validate all educational programs established as provided herein:~~)) At least thirty days prior to expiration, the director shall mail a notice for renewal of license to every person licensed for the current licensing period. The applicant shall return the notice to the department with a renewal fee determined by the director as provided in RCW 43.24.086 before the expiration date. Upon receipt of the notice and appropriate fee, ((~~and if requirements for continuing nursing education have been met;~~)) the department shall issue to the applicant a license which shall render the holder thereof a legal practitioner of nursing in

either active or inactive status for the period stated on the license((: ~~PROVIDED, That the requirement of continuing nursing education may for good cause shown be waived by the board. The department's costs for nurses' continuing education shall be borne from licensure fees: PROVIDED FURTHER, That the power of the board to establish continuing nursing education requirements as a condition of license renewal shall terminate on January 1, 1986, unless extended by law for an additional fixed period of time~~)).

Sec. 10. Section 20, chapter 202, Laws of 1949 as last amended by section 70, chapter 7, Laws of 1985 and RCW 18.88.200 are each amended to read as follows:

Any licensee who allows his or her license to lapse by failing to renew the license, shall upon application for renewal pay a penalty determined by the director as provided in RCW 43.24.086. If the applicant fails to renew the license before the end of the current licensing period, the license shall be issued for the next licensing period by the department upon written application and fee determined by the director as provided in RCW 43.24.086. Persons on lapsed status for three or more years must provide evidence of knowledge and skill of current practice as required by the board.

Sec. 11. Section 22, chapter 202, Laws of 1949 as amended by section 20, chapter 133, Laws of 1973 and RCW 18.88.220 are each amended to read as follows:

A person licensed under the provisions of this chapter desiring to retire temporarily from the practice of nursing in this state shall send a written notice to the director.

Upon receipt of such notice the name of such person shall be placed ((~~upon the nonpracticing list~~)) on inactive status. While remaining on this ((~~list~~)) status the person ((~~shall not be subject to the payment of any renewal fees and~~)) shall not practice nursing in the state as provided in this chapter. When such person desires to resume practice, application for renewal of license shall be made to the board and renewal fee payable to the state treasurer. Persons on ((~~nonpracticing~~)) inactive status for three years or more must provide evidence of knowledge and skill of current practice as required by the board or as hereinafter in this chapter provided.

NEW SECTION. Sec. 12. A new section is added to chapter 18.78 RCW to read as follows:

An individual may place his or her license on inactive status with proper notification to the department. The holder of an inactive license shall not practice practical nursing in this state. The inactive renewal fee shall be established by the director pursuant to RCW 43.24.086. Failure to renew an inactive license shall result in cancellation in the same manner as an active license. An inactive license may be placed in an active status upon compliance with the rules established by the board.

The provisions relating to the denial, suspension, and revocation of a license shall be applicable to an inactive or lapsed license. When proceedings to suspend or revoke an inactive license have been initiated, the license shall not be reinstated until the proceedings have been completed.

NEW SECTION. Sec. 13. A new section is added to chapter 18.88 RCW to read as follows:

Upon approval by the board and following verification of satisfactory completion of an advanced formal education, the department of licensing shall issue an interim permit authorizing the applicant to practice specialized and advanced nursing practice pending notification of the results of the first certification examination. If the applicant passes the examination, the department shall grant advanced registered nurse practitioner status. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable. The holder of the interim permit is subject to chapter 18.130 RCW.

Passed the House March 7, 1988.
Passed the Senate March 2, 1988.
Approved by the Governor March 23, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 23, 1988.

Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 6 and 7, Engrossed Substitute House Bill No. 1404, entitled:

"AN ACT Relating to nursing."

Sections 6 and 7 contain identical language to sections 1 and 2, Engrossed Senate Bill No. 6119. To avoid confusion in the law, I have vetoed sections 6 and 7.

With the exception of sections 6 and 7, Engrossed Substitute House Bill No. 1404 is approved."

CHAPTER 212

[Engrossed Senate Bill No. 6119]
LICENSED PRACTICAL NURSES—INTERIM PERMITS

AN ACT Relating to interim permits and examinations for persons applying to be licensed practical nurses; amending RCW 18.78.060; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 6, chapter 222, Laws of 1949 as last amended by section 8, chapter 55, Laws of 1983 and RCW 18.78.060 are each amended to read as follows:

An applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence, on a form provided by the board, verified under oath, that the applicant:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Is of good physical and mental health;

(4) Has completed at least a tenth grade course or its equivalent, as determined by the board;

(5) Has completed an approved program of not less than nine months for the education of practical nurses, or its equivalent, as determined by the board.

To be licensed as a practical nurse, each applicant shall be required to pass an examination in such subjects as the board may determine within the scope of and commensurate with the work to be performed by a licensed practical nurse. Upon approval by the board, the department shall issue an interim permit authorizing the applicant to practice nursing as authorized under this chapter pending notification of the results of the first licensing examination following verification of satisfactory completion of an approved program of practical nursing. Any applicant failing to pass such an examination may apply for reexamination. If the applicant fails the examination, the interim permit expires upon notification and is not renewable. Upon passing such examination as determined by the board, the director shall issue to the applicant a license to practice as a licensed practical nurse, providing the license fee is paid by the applicant and the applicant meets all other requirements of the board.

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, 1988. The director of licensing may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the Senate February 10, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 213

[Substitute Senate Bill No. 6118]

CHILD CARE COORDINATING COMMITTEE—CHILD CARE EXPANSION GRANT FUND

AN ACT Relating to child care development and services; adding new sections to chapter 74.13 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All

parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. However, to the extent child care services are used, parents are encouraged to participate fully in the effort to improve the quality of child care services.

(2) Promote a variety of culturally and developmentally appropriate child care settings and services of the highest possible quality in accordance with the basic principle of continuity of care. These settings shall include, but not be limited to, family day care homes, mini-centers, centers and schools.

(3) Promote the growth, development and safety of children by working with community groups including providers and parents to establish standards for quality service, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services.

(4) Promote equal access to quality, affordable, socio-economically integrated child care for all children and families.

(5) Facilitate broad community and private sector involvement in the provision of quality child care services to foster economic development and assist industry.

NEW SECTION. Sec. 2. (1) There is established a child care coordinating committee to provide coordination and communication between state agencies responsible for child care and early childhood education services. The child care coordinating committee shall be composed of not less than seventeen nor more than thirty members who shall include:

(a) One representative each from the department of social and health services, the department of community development, the office of the superintendent of public instruction, and any other agency having responsibility for regulation, provision, or funding of child care services in the state;

(b) One representative from the governor's commission on children;

(c) One representative from the department of trade and economic development;

(d) At least one representative of family home child care providers and one representative of center care providers;

(e) At least one representative of early childhood development experts;

(f) At least one representative of school districts and teachers involved in the provision of child care and preschool programs;

(g) At least one parent education specialist;

(h) At least one representative of resource and referral programs;

(i) One pediatric or other health professional;

(j) At least one representative of college or university child care providers;

(k) At least one representative of a citizen group concerned with child care;

(l) At least one representative of a labor organization;

(m) At least one representative of a head start – early childhood education assistance program agency;

(n) At least one employer who provides child care assistance to employees;

(o) Parents of children receiving, or in need of, child care, half of whom shall be parents needing or receiving subsidized child care and half of whom shall be parents who are able to pay for child care.

The named state agencies shall select their representative to the child care coordinating committee. The department of social and health services shall select the remaining members, considering recommendations from lists submitted by professional associations and other interest groups until such time as the committee adopts a member selection process. Staff support for the child care coordinating committee shall be provided within available resources by the department of social and health services on an ongoing basis. The department shall use any federal funds which may become available to accomplish the purposes of sections 1 through 3 of this act.

The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee. The secretary of social and health services shall appoint a temporary chair until the committee has adopted policies and elected a chair accordingly. Child care coordinating committee members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) To the extent possible within available funds, the child care coordinating committee shall:

(a) Serve as an advisory coordinator for all state agencies responsible for early childhood or child care programs for the purpose of improving communication and interagency coordination, but not to review the substance of programs. The committee shall annually review state programs and make recommendations to the agencies and the legislature which will maximize funding and promote furtherance of the policies set forth in section 1 of this act;

(b) Review and propose changes to the child care subsidy system by December 1, 1989;

(c) Review agency administration of the child care expansion grant program described in section 3 of this act;

(d) Review alternative models for child care service systems, in the context of the policies set forth in section 1 of this act, and recommend to the legislature a new child care service structure;

(e) Review options and make recommendations on the feasibility of establishing an allocation for day care facilities when constructing state buildings; and

(f) Perform other functions to improve the quantity and quality of child care in the state, including compliance with existing and future prerequisites for federal funding.

NEW SECTION. Sec. 3. (1) The legislature recognizes that a severe shortage of child care exists to the detriment of all families and employers throughout the state. Many workers are unable to enter or remain in the work force due to a shortage of child care resources. The high costs of starting a child care business create a barrier to the creation of new slots, especially for children with special needs.

(2) A child care expansion grant fund is created in the custody of the secretary of the department of social and health services. Grants shall be awarded on a one-time only basis to persons, organizations, or schools needing assistance to start a child care center or mini-center as defined by the department by rule, or to existing licensed child care providers, including family home providers, for the purpose of making capital improvements in order to accommodate handicapped children as defined under chapter 72.40 RCW, sick children, or infant care, or children needing night time care. No grant may exceed ten thousand dollars. Start-up costs shall not include operational costs after the first three months of business.

(3) Child care expansion grants shall be awarded on the basis of need for the proposed services in the community, within appropriated funds.

(4) The department shall adopt rules under chapter 34.04 RCW setting forth criteria, application procedures, and methods to assure compliance with the purposes described in this section.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act are each added to chapter 74.13 RCW.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This act is 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 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 214

[Engrossed Senate Bill No. 6647]
SALMON PRODUCTION GOAL

AN ACT Relating to salmon production; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that the salmon resource of the state can be greatly increased to benefit all fishing groups and the economy of the state. Investments in the increase of salmon stocks will provide benefits many times the cost of the program and will act as a catalyst for many additional benefits in the tourism and maritime industries, while enhancing the liveability of the state.

NEW SECTION. Sec. 2. The legislature hereby establishes a production goal to double the state-wide salmon catch by the year 2000. The director of the department of fisheries shall provide the legislature with a specific plan for legislative approval that will increase the salmon catch by one hundred percent over current levels by the year 2000. The plan shall contain specific provisions to increase both hatchery and naturally spawning salmon production to a level that will support the harvest goal established in this section and will identify the capital and operating costs associated with achieving this goal. All salmon producing areas of the state are to be included in the plan. The department of fisheries shall provide the Columbia River section of the plan to the house of representatives and senate ways and means, environment and natural resources, environmental affairs, and natural resources committees by March 15, 1990. The Puget Sound and Washington coastal section of the plan shall be submitted to the house of representatives and senate ways and means, environment and natural resources, environmental affairs and natural resources committees by January 1, 1992.

The plan shall include the following critical elements:

(1) Ways of involving all fishing groups, including Indian tribes, in a cooperative manner;

(2) Ways of using low capital cost projects to produce salmon as inexpensively as possible;

(3) Ways of reactivating all hatcheries and ponds that are currently not used or are underutilized;

(4) Ways of increasing the productivity of natural spawning salmon by watershed improvements;

(5) New technology that should be applied to increase the department's productivity;

(6) Analysis of the potential for private contracting to produce salmon for public fisheries;

(7) Methods to increase public volunteer efforts and cooperative projects;

(8) Steps necessary to be taken in the United States–Canada treaty process to protect the state's investment in salmon production;

(9) Elements of coordination with the Northwest Power Planning Council programs to ensure maximum Columbia river benefits;

(10) The role that should be played by private consulting companies in developing and implementing the plan;

(11) Coordination with federal fish and wildlife agency fish production programs;

(12) Future needs for salmon predator control measures;

(13) Methods for maximizing the take of salmon eggs for fish production purposes;

(14) Plans for preserving the vital food chain of the salmon;

(15) Proposals for increasing all species of salmon harvested in the state; and

(16) Coordination with the office of the secretary of state to assure inclusion of the project in bicentennial activities.

The department of fisheries, in cooperation with the department of revenue, shall assess various funding mechanisms and make recommendations to the legislature in the plan. The department, in cooperation with the department of trade and economic development, shall prepare an analysis of the economic benefits to the state that will occur when the salmon catch is increased by one hundred percent in the year 2000.

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 215

[Engrossed Substitute Senate Bill No. 6741]
STORAGE TANKS

AN ACT Relating to storage tanks; creating new sections; providing an expiration 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 planning and development of regulatory programs for storage tanks containing petroleum and regulated substances must begin as soon as possible in order to meet the requirements of federal and state laws and address public health and safety concerns. The legislature further finds that a state regulatory program for underground storage tanks needs to be developed that is at least as stringent as the minimum requirements under 42 U.S.C. Sec. 6991 et seq.

In addition, the legislature finds that affordable private methods of ensuring financial responsibility as required under 42 U.S.C. Sec. 6991b(d) may not be available. Thus, it is necessary to study the possibility of developing risk retention pools to aid underground storage tank owners and operators in meeting federal financial responsibility requirements. The legislature further finds that the economic well-being of small businesses in the state that own or operate underground storage tanks depends on a clear state policy and adequate state regulatory programs.

Since additional information is needed to develop specific tank construction, installation, operational, monitoring, reporting, closure, and financial responsibility requirements, the legislature establishes the joint select committee on storage tanks to make recommendations on program elements and to develop legislation to establish these programs by June 1, 1989.

NEW SECTION. Sec. 2. (1) The joint select committee on storage tanks is created. The committee shall consist of six members from the senate appointed by the president of the senate and six members from the house of representatives appointed by the speaker of the house of representatives. The committee shall include equal numbers of members from the majority and minority parties of each house. The joint select committee chair and vice-chair shall be chosen by the majority vote of committee members and shall serve for the duration of the committee.

(2) The committee shall seek input from persons and organizations representing major petroleum companies, agriculture, environmental protection, petroleum jobbing, vehicle sales firms, vehicle repair firms, insurance underwriting, gasoline retailing, cities, counties, other units of local government, fuel oil retailing, the general business community, and the public.

(3) The committee shall be staffed from the senate committees on environment and natural resources, financial institutions and insurance, and ways and means and the house of representatives committees on environmental affairs, financial institutions and insurance, and ways and means. The department of ecology, department of general administration, and the insurance commissioner shall provide necessary staff and resources to assist the committee in carrying out its purpose and preparing legislation to establish the recommended programs by June 1, 1989.

(4) The committee shall report its findings and recommendations to the senate committees on environment and natural resources, financial institutions and insurance, and ways and means and the house of representatives committees on environmental affairs, financial institutions and insurance, and ways and means by December 10, 1988.

NEW SECTION. Sec. 3. The committee shall make recommendations on topics including, but not limited to, the following:

(1) Elements of an underground storage tank regulatory program necessary to meet the requirements of 42 U.S.C. Sec. 6991 et seq. and to allow full delegation of the federal program to the state. The committee shall specify circumstances under which it may be advisable to develop standards and requirements more stringent than those provided in federal regulations.

(2) Provisions necessary to implement a state-wide underground storage tank program, including:

(a) Whether state laws should generally preempt local laws governing the regulation of underground storage tanks but also allow for local programs that address environmentally sensitive areas; and

(b) Methods by which implementation and operation of underground storage tank programs will be coordinated between state and local governments.

(3) The cost of administering a state underground storage tank program and the methods of funding program administration, including:

(a) The need for limitations on fees charged by local governments; and

(b) Revenue sharing by the department of ecology with local governments to fund local program administration.

(4) Financial responsibility requirements for the owners and operators of underground petroleum storage tanks that meet the minimum federal financial responsibility requirements under 42 U.S.C. Sec. 6991b(d) and the advisability of and methods for establishing an owner and operator funded program that assures compliance with the federal requirements and which limits the state's liability, including the advisability of state administration of risk retention pools designed to provide financial responsibility for owners and operators who cannot obtain adequate and reasonably priced private insurance. If the determination is made that a state-administered risk retention pool is necessary, the committee shall develop methods for implementation, including information on:

(a) Estimates of the costs of administering risk retention pools;

(b) Adequate means of ensuring that the state will have the necessary resources to address the obligation of the risk retention pools in the event that regular contributions are insufficient, including but not limited to a petroleum products tax;

(c) Adequate yet reasonable contributions from the owner or operator;

(d) Ways to ensure that owners and operators of tanks eligible to obtain funds from the risk retention pools will comply with the applicable state storage tank regulations; and

(e) A timetable for implementation of the risk retention pools by June 1, 1989.

(5) A timetable for implementing a state underground storage tank regulatory program.

NEW SECTION. Sec. 4. (1) By December 10, 1988, the department of ecology shall provide a report to the legislature on the following:

(a) An inventory of above-ground tanks containing petroleum in existence in this state, including their sizes, location, types, and products stored therein;

(b) An analysis of the current practices and requirements applicable to above-ground storage tanks containing petroleum, including an examination of any causes of releases from such tanks and appropriate responses;

(c) Recommendations for a state program, if necessary for the installation, operation, and closure of above-ground storage tanks.

(2) For the purposes of this study and notwithstanding the provisions of chapter 34.04 RCW, the department, with the advice of the joint select committee established in section 2 of this act, shall develop a definition of above-ground petroleum storage tanks except that the definition shall not include farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes, tanks used for storing heating oil for consumptive use on the premises where stored, or barrels or drums commonly used for the transportation and temporary storage of petroleum products.

(3) In carrying out the study, the department may require a person, firm, corporation, or government entity other than a federal government entity, to respond to requests for information necessary to meet the requirements of this study.

NEW SECTION. Sec. 5. This act shall expire July 1, 1989.

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

Passed the Senate March 8, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 216

[Engrossed House Bill No. 1354]

VETERANS AFFAIRS ADVISORY COMMITTEE, VETERANS AFFAIRS DEPARTMENT—SUNSET PROVISIONS REPEALED—NURSING CARE FOR INDIGENT VETERANS, STUDY

AN ACT Relating to the department of veterans affairs; creating a new section; repealing RCW 43.60A.081, 43.131.227, 43.131.228, 43.131.245, and 43.131.246; and declaring an emergency.

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 2, chapter 285, Laws of 1977 ex. sess., section 13, chapter 223, Laws of 1982 and RCW 43.60A.081;

(2) Section 40, chapter 99, Laws of 1979, section 14, chapter 223, Laws of 1982 and RCW 43.131.227;

(3) Section 82, chapter 99, Laws of 1979, section 15, chapter 223, Laws of 1982 and RCW 43.131.228;

(4) Section 1, chapter 223, Laws of 1982 and RCW 43.131.245; and

(5) Section 5, chapter 223, Laws of 1982 and RCW 43.131.246.

NEW SECTION. Sec. 2. The department of veterans affairs and the veterans affairs advisory committee, together with a select committee of veterans and others familiar with long term care needs to be appointed by the department of veterans affairs, shall work with the department of social and health services and the office of financial management to conduct a study of the issues relating to nursing care for indigent veterans in the state of Washington. The department of veterans affairs shall submit a report to the house state government committee, the senate governmental operations committee, and the ways and means committees of the house and senate no later than November 1, 1988. The report shall (1) identify future long term care requirements for indigent veterans, (2) provide recommended options for providing such care, and (3) provide estimates of the costs of the recommended options.

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 15, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 217

[Engrossed House Bill No. 668]

DENTISTS—SEDATION AND GENERAL ANESTHESIA

AN ACT Relating to the administration of sedation and general anesthesia by practitioners licensed under chapter 18.32 RCW; and amending RCW 18.32.640.

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

Sec. 1. Section 14, chapter 5, Laws of 1977 ex. sess. as amended by section 42, chapter 259, Laws of 1986 and RCW 18.32.640 are each amended to read as follows:

(1) The board may adopt, amend, and rescind such rules as it deems necessary to carry out this chapter.

(2) The board may adopt rules governing administration of sedation and general anesthesia by persons licensed under this chapter, including necessary training, education, equipment, and the issuance of any permits, certificates, or registration as required.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 218

[Senate Bill No. 6608]

THEFT OF LIVESTOCK, SENTENCING

AN ACT Relating to sentencing for theft of livestock; amending RCW 9.94A.310; reenacting and amending RCW 9.94A.320; and prescribing penalties.

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

Sec. 1. Section 2, chapter 115, Laws of 1983 as last amended by section 22, chapter 257, Laws of 1986 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

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
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
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	0–90	3m 2–	4m 2–	5m 3–	8m 4–	13m 12+–	16m 14–	20m 17–	2y2m 22–

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
	Days	Days	5	6	8	12	14	18	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 for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56-.200), or Kidnapping 1 (RCW 9A.40.020)
(b) 18 months for Burglary 1 (RCW 9A.52.020)
(c) 12 months 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), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug offense.

Sec. 2. Section 3, chapter 115, Laws of 1983 as last amended by section 4, chapter 187, Laws of 1987 and by section 1, chapter 224, Laws of 1987 and RCW 9.94A.320 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XIV	Aggravated Murder 1 (RCW 10.95.020)
XIII	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XII	Murder 2 (RCW 9A.32.050)

XI	Assault 1 (RCW 9A.36.011)
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Statutory Rape 1 (RCW 9A.44.070) Explosive devices prohibited (RCW 70.74.180) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I–V to someone under 18 and 3 years junior (RCW 69.50.406) Sexual Exploitation, Under 16 (RCW 9.68A.040(2)(a)) Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
VIII	Arson 1 (RCW 9A.48.020) Rape 2 (RCW 9A.44.050) 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)) 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), (c), and (d))
Incest 1 (RCW 9A.64.020(1))
Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))
Intimidating a Judge (RCW 9A.72.160)

V
Criminal Mistreatment 1 (RCW 9A.42.020)
Rape 3 (RCW 9A.44.060)
Kidnapping 2 (RCW 9A.40.030)
Extortion 1 (RCW 9A.56.120)
Incest 2 (RCW 9A.64.020(2))
Perjury 1 (RCW 9A.72.020)
Extortionate Extension of Credit (RCW 9A.82.020)
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Rendering Criminal Assistance 1 (RCW 9A.76.070)

IV
Theft of Livestock 1 (RCW 9A.56.080)
Robbery 2 (RCW 9A.56.210)
Assault 2 (RCW 9A.36.021)
Escape 1 (RCW 9A.76.110)
Arson 2 (RCW 9A.48.030)
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
Criminal Mistreatment 2 (RCW 9A.42.030)
Statutory Rape 3 (RCW 9A.44.090)
Extortion 2 (RCW 9A.56.130)
Unlawful Imprisonment (RCW 9A.40.040)

Assault 3 (RCW 9A.36.031)
Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
Harassment (RCW 9A.46.020)
Promoting Prostitution 2 (RCW 9A.88.080)
Wilful Failure to Return from Work Release (RCW 72.65.070)
Introducing Contraband 2 (RCW 9A.76.150)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Escape 2 (RCW 9A.76.120)
Perjury 2 (RCW 9A.72.030)
Intimidating a Public Servant (RCW 9A.76.180)
Tampering with a Witness (RCW 9A.72.120)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
Theft of livestock ((1)) 2 (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)~~))
Burglary 2 (RCW 9A.52.030)
Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
Computer Trespass 1 (RCW 9A.52.110)

I Theft 2 (RCW 9A.56.040)
Possession of Stolen Property 2 (RCW 9A.56.160)
Forgery (RCW 9A.60.020)
Taking Motor Vehicle Without Permission (RCW 9A.56.070)
Vehicle Prowl 1 (RCW 9A.52.095)
Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
Malicious Mischief 2 (RCW 9A.48.080)
Reckless Burning 1 (RCW 9A.48.040)
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
False Verification for Welfare (RCW 74.08.055)
Forged Prescription (RCW 69.41.020)
Forged Prescription for a Controlled Substance (RCW 69.50.403)

Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (RCW 69.50.401(d))

Passed the Senate February 12, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 219

[Engrossed Substitute Senate Bill No. 6148]

CONCEALED PISTOL LICENSES—APPLICATION REQUIREMENTS

AN ACT Relating to concealed pistol licenses and restriction on dissemination of information applications; amending RCW 9.41.070; and adding a new section to chapter 42.17 RCW.

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

Sec. 1. Section 7, chapter 172, Laws of 1935 as last amended by section 3, chapter 428, Laws of 1985 and RCW 9.41.070 are each amended to read as follows:

(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. Such ((~~citizen's~~)) applicant's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or

(b) Is under twenty-one years of age; or

(c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

(d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or

(e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor.

The license shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years. The license

shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state ((~~permit~~)) license is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's place of birth, whether the applicant is a United States citizen, and if not a citizen whether the applicant has declared the intent to become a citizen and whether he or she has been required to register with the state or federal government and any identification or registration number, if applicable. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. An applicant who is not a citizen shall provide documentation showing resident alien status and the applicant's intent to become a citizen. A person who makes a false statement regarding citizenship on the application is guilty of a misdemeanor. A person who is not a citizen of the United States, or has not declared his or her intention to become a citizen shall meet the additional requirements of RCW 9.41.170.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

(2) The fee for the original issuance of a four-year license shall be twenty dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed; and

(c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(3) The fee for the renewal of such license shall be twelve dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund; and

(b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(4) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(5) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (3) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state ((~~game~~)) wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(((~~5~~))) (6) Notwithstanding the requirements of subsections (1) through (((~~4~~))) (5) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(((~~6~~))) (7) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.

NEW SECTION. Sec. 2. A new section is added to chapter 42.17 RCW to read as follows:

The license applications under RCW 9.41.070 are exempt from the disclosure requirements of this chapter. Copies of license applications or information on the applications may be released to law enforcement or corrections agencies.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 220

[House Bill No. 1325]

FEDERAL CLEAN WATER ACT, DEPARTMENT OF ECOLOGY AUTHORITY

AN ACT Relating to the authority to administer federal clean water act programs; amending RCW 90.48.260; and adding a new section to chapter 90.48 RCW.

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

Sec. 1. Section 24, chapter 13, Laws of 1967 as last amended by section 1, chapter 270, Laws of 1983 and RCW 90.48.260 are each amended to read as follows:

The department of ecology is hereby designated as the State Water Pollution Control Agency for all purposes of the federal clean water act as ((~~amended~~)) it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound water quality authority. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

(1) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: (a) Effluent treatment and limitation requirements together with timing requirements related thereto; (b) applicable receiving water quality standards requirements; (c) requirements of standards of performance for new sources; (d) pretreatment requirements; (e) termination and modification of permits for cause; (f) requirements for public notices and opportunities for public hearings; (g) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; (h) requirements for inspection, monitoring, entry, and reporting; (i) enforcement of the program through penalties, emergency powers, and criminal sanctions; (j) a continuing planning process; and (k) user charges.

(2) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants,

loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

(3) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

NEW SECTION. Sec. 2. A new section is added to chapter 90.48 RCW to read as follows:

In implementing this chapter and in participating in programs under the federal clean water act, the department may consult with the department of social and health services concerning standards for repair of existing, failing on-site sewage disposal systems that are adjacent to marine waters. By January 1, 1989, the department of social and health services shall propose rules for adoption by the state board of health identifying the standards for repair of existing, failing on-site sewage disposal systems at single-family residences that were legally occupied prior to the effective date of this act and that are adjacent to marine waters. The rules may specify the design, operation and maintenance standards for such repaired systems so as to ensure protection of the public health, attainment of state water quality standards and the protection of shellfish and other public resources. The rules shall also provide that any proposed discharge to marine water shall be considered only if on-site sewage disposal systems are not feasible and that such discharges shall meet the requirements of this chapter and department of ecology regulations. The state board of health shall adopt such proposed rules unless the board finds modification or rejection of them necessary to protect the public health.

Passed the House March 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 221

[Engrossed Senate Bill No. 6519]

NURSING HOMES—DEPRECIATION BASE

AN ACT Relating to nursing homes; and amending RCW 74.46.360.

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

Sec. 1. Section 36, chapter 177, Laws of 1980 as amended by section 1, chapter 175, Laws of 1986 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~~)) any contractor, such accumulated depreciation to be measured in accordance with subsections (2), (3), and (4) of this section and RCW 74.46.350 and 74.46.370. If the department challenges the historical cost of an asset, or if the contractor cannot or will not provide the historical costs, the department will have the department of general administration, through an appraisal procedure, determine the fair market value of the assets at the time of purchase. The depreciation base of the assets will not exceed such fair market value.

(2) The historical cost of donated assets, or of assets received through testate or intestate distribution, shall be the lesser of:

(a) Fair market value at the date of donation or death; or

(b) The historical cost base of the owner last contracting with the department, if any.

(3) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

(4) (a) Where depreciable assets are acquired that were used in the medical care program subsequent to January 1, 1980, the depreciation base of the assets will not exceed the net book value which did exist or would have existed had the assets continued in use under the previous contract with the department; except that depreciation shall not be assumed to accumulate during periods when the assets were not in use in or as a facility.

(b) The provisions of (a) of this subsection shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the ownership of the assets has been previously transferred in an arm's-length transaction nor to the first arm's-length acquisition that occurs after January 1, 1980, for facilities participating in the medical care program prior to January 1, 1980. The new depreciation base for such acquisitions shall not exceed the fair market value of the assets as determined by the department of general administration through an appraisal procedure. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious. This subsection is inoperative for any transfer of ownership of any asset occurring on or after July 18, 1984, leaving (a) of this subsection to apply alone to such transfers: PROVIDED, HOWEVER, That this subsection shall apply to transfers of ownership of assets occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under medicaid cost reimbursement on an owner-operated basis or as a related-party lease: PROVIDED FURTHER, That for any contractor that can document in writing an agreement for the purchase of a nursing

home dated prior to August 1, 1984, and submitted to the department prior to January 1, 1988, the depreciation base of the nursing home shall not exceed the fair market value of the assets at the date of purchase as determined by the department of general administration through an appraisal procedure.

(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.

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 222

[Substitute House Bill No. 1754]

TAX ADMINISTRATION REVISIONS

AN ACT Relating to tax administration; amending RCW 36.95.080, 82.03.070, 82.03.120, 82.03.140, 82.03.150, 82.03.160, 82.03.170, 84.08.130, 84.08.060, 84.36.385, 84.38.030, 84.38.100, 84.38.120, 84.40.030, 84.40.040, 84.40.060, 84.40.130, 84.40.320, 84.48.010, 84.48.014, 84.48.042, 84.48.075, 84.48.080, 84.52.020, 84.52.070, 84.52.080, 84.56.020, 84.69.050, 84.69.060, and 84.69.140; adding a new section to chapter 84.40 RCW; adding new sections to chapter 84.48 RCW; repealing RCW 84.52.090, 84.56.390, and 84.56.400; and providing an effective date.

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

Sec. 1. Section 8, chapter 155, Laws of 1971 ex. sess. as amended by section 1, chapter 52, Laws of 1981 and RCW 36.95.080 are each amended to read as follows:

The board shall, on or before the first day of July of any given year, ascertain and prepare a list of all persons believed to own television sets within the district and deliver a copy of such list to the county ((~~assessor~~)) treasurer.

Sec. 2. Section 36, chapter 26, Laws of 1967 ex. sess. and RCW 82.03.070 are each amended to read as follows:

The board may appoint, discharge and fix the compensation of an executive ((~~secretary~~)) director, tax referees, a clerk, and such other clerical, professional and technical assistants as may be necessary. Tax referees shall not be subject to chapter 41.06 RCW.

Sec. 3. Section 41, chapter 26, Laws of 1967 ex. sess. and RCW 82.03.120 are each amended to read as follows:

The board shall maintain at its principal office a ((~~journal which shall contain all official actions of the board, with the exception of findings and decisions, together with the vote of each member on such actions~~)) copy of its final findings and decisions. The ((~~journal~~)) findings and decisions shall be available for public inspection at the principal office of the board at all reasonable times.

Sec. 4. Section 43, chapter 26, Laws of 1967 ex. sess. as amended by section 8, chapter 46, Laws of 1982 1st ex. sess. and RCW 82.03.140 are each amended to read as follows:

In all appeals over which the board has jurisdiction under RCW 82-.03.130, a party taking an appeal may elect either a formal or an informal hearing, such election to be made according to rules of practice and procedure to be promulgated by the board: PROVIDED, That nothing shall prevent the assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130, within twenty days from the date of the receipt of the notice of appeal, from filing with the clerk of the board notice of intention that the hearing be a formal one: PROVIDED, HOWEVER, That nothing herein shall be construed to modify the provisions of RCW 82.03.190: AND PROVIDED FURTHER, That upon an appeal under RCW 82.03.130(5), the director of revenue may, within ten days from the date of its receipt of the notice of appeal, file with the clerk of the board notice of its intention that the hearing be held pursuant to chapter 34.04 RCW. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.

Sec. 5. Section 44, chapter 26, Laws of 1967 ex. sess. and RCW 82-.03.150 are each amended to read as follows:

In all appeals involving an informal hearing, the board or its tax referees shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies by chapter 34.04 RCW. The board, or its tax referees, shall also have all powers granted the department of revenue pursuant to RCW 82.32.110. In the case of appeals within the scope of RCW 82.03.130(2) the board or any member thereof may obtain such assistance, including the making of field investigations, from the staff of the director of revenue as the board or any member thereof may deem necessary or appropriate.

Sec. 6. Section 45, chapter 26, Laws of 1967 ex. sess. and RCW 82-.03.160 are each amended to read as follows:

In all appeals involving a formal hearing the board or its tax referees shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34-.04 RCW; and the board, and each member thereof, or its tax referees, 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. The board, or its tax referees, shall also have all powers granted the department of revenue pursuant to RCW 82.32.110. In the case of appeals within the scope of RCW 82.03.130(2), the board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director of revenue as the board, or any member thereof, may deem necessary or appropriate: PROVIDED, HOWEVER, That any communication, oral or written, from the staff of the director to the board or its tax referees shall be presented only in open hearing.

Sec. 7. Section 46, chapter 26, Laws of 1967 ex. sess. and RCW 82-.03.170 are each amended to read as follows:

All proceedings, including both formal and informal hearings, before the board or any of its members or tax referees shall be conducted in accordance with such rules of practice and procedure as the board may prescribe. The board shall publish such rules and arrange for the reasonable distribution thereof.

Sec. 8. Section 84.08.130, chapter 15, Laws of 1961 as last amended by section 1, chapter 290, Laws of 1977 ex. sess. and RCW 84.08.130 are each amended to read as follows:

Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the board of tax appeals by filing with the county auditor a notice of appeal in duplicate within thirty days after the ((~~action~~)) mailing of the decision of such board of equalization, which notice shall specify the actions complained of, and said auditor shall forthwith transmit one of said notices to the board of tax appeals; and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization. The petitioner shall provide a copy of the notice of appeal to all named parties. Appeals which are not filed as provided in this section shall be continued or dismissed. The board of tax appeals shall require the board appealed from to ((~~certify the minutes of its proceedings resulting~~)) file a true and correct copy of its decision in such action and all evidence taken in connection therewith, and may receive further evidence, and shall make such order as in its judgment is just and proper.

Sec. 9. Section 84.08.060, chapter 15, Laws of 1961 as last amended by section 11, chapter 46, Laws of 1982 1st ex. sess. and RCW 84.08.060 are each amended to read as follows:

The department of revenue shall have power to direct and to order any county board of equalization to raise or lower the valuation of any taxable property, or to add any property to the assessment list, or to perform or complete any other duty required by statute. The department of revenue may require any such board of equalization to reconvene after its adjournment for the purpose of performing any order or requirement made by the

department of revenue and may make such orders as it shall determine to be just and necessary. The department may require any county board of equalization to reconvene at any time for the purpose of performing or completing any duty or taking any action it might lawfully have performed or taken at any of its previous ((~~regular July, November or April~~)) meetings. No board may be reconvened later than three years after the date of adjournment of its regularly convened session. If such board of equalization shall fail or refuse forthwith to comply with any such order or requirement of the department of revenue, the department of revenue shall have power to take any other appropriate action, or to make such correction or change in the assessment list, and such corrections and changes shall be a part of the record of the proceedings of the said board of equalization: PROVIDED, That in all cases where the department of revenue shall raise the valuation of any property or add property to the assessment list, it shall give notice either for the same time and in the same manner as is now required in like cases of county boards of equalization, or if it shall deem such method of giving notice impracticable it shall give notice by publication thereof in a newspaper of general circulation within the county in which the property affected is situated once each week for two consecutive weeks, and the department of revenue shall not proceed to raise such valuation or add such property to the assessment list until a period of five days shall have elapsed subsequent to the date of the last publication of such notice: PROVIDED FURTHER, That appeals to the board of tax appeals by any taxpayer or taxing unit concerning any action of the county board of equalization shall not raise the valuation of the property to an amount greater than the larger of either the valuation of the property by the county assessor or the valuation of the property assigned by the county board of equalization. Such notice shall give the legal description of each tract of land involved, or a general description in case of personal property; the tax record-owner thereof; the assessed value thereof determined by the county board of equalization in case the property is on the assessment roll; and the assessed value thereof as determined by the department of revenue and shall state that the department of revenue proposes to increase the assessed valuation of such property to the amount stated and to add such property to the assessment list at the assessed valuation stated. The necessary expense incurred by the department of revenue in making such reassessment and/or adding such property to the assessment list shall be borne by the county or township in which the property as reassessed and/or so added to the assessment list is situated and shall be paid out of the proper funds of such county upon the order of the department of revenue.

Sec. 10. Section 3, chapter 182, Laws of 1974 ex. sess. as last amended by section 6, chapter 11, Laws of 1983 1st ex. sess. and RCW 84.36.385 are each amended to read as follows:

A claim for exemption under RCW 84.36.381 as now or hereafter amended, shall be made and filed ((~~between January 2 and July 1~~)) at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as prescribed and furnished by the department of revenue.

A person granted an exemption under RCW 84.36.381 shall inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption shall be denied but such denial shall be subject to appeal under the provisions of RCW 84.48.010(5). If the applicant had received exemption in prior years based on erroneous information, the taxes shall be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed three years.

The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information shall be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

Sec. 11. Section 28, chapter 291, Laws of 1975 1st ex. sess. as last amended by section 21, chapter 220, Laws of 1984 and RCW 84.38.030 are each amended to read as follows:

A claimant may defer payment of special assessments and/or real property taxes on his property that is receiving an exemption under RCW 84.36.381 through 84.36.389 on up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(2) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value: PROVIDED, That if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred shall not exceed one hundred percent of the claimant's equity value in the land or lot only.

(3) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

Sec. 12. Section 35, chapter 291, Laws of 1975 1st ex. sess. as last amended by section 23, chapter 220, Laws of 1984 and RCW 84.38.100 are each amended to read as follows:

Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, ((it)) the amount deferred and required to be paid pursuant to RCW 84.38.120 shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: PROVIDED, That the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, shall have priority to said deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in said property and shall bear interest at the rate of eight percent per year from the time it could have been paid before delinquency until said obligation is paid: PROVIDED, That when taxes are deferred as provided in RCW 84.64.030 or 84.64.050, the amount shall bear interest at the rate of eight percent per year from the date the declaration is filed until the obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ownership for the mobile home. In the case of all other property, the department of revenue shall file a notice of the deferral with the county recorder or auditor.

Sec. 13. Section 37, chapter 291, Laws of 1975 1st ex. sess. as amended by section 25, chapter 220, Laws of 1984 and RCW 84.38.120 are each amended to read as follows:

After receipt of the notification from the county assessor of the amount of deferred special assessments and/or real property taxes the department shall pay, from amounts appropriated for that purpose, to the treasurers of such municipal corporations said amounts, equivalent to the amount of special assessments and/or real property taxes deferred, to be distributed to the local improvement or taxing districts which levied the taxes so deferred: PROVIDED, That when taxes are deferred as provided in RCW 84.64.030 or 84.64.050, the department shall pay to the treasurer of the county the amount equivalent to all taxes, foreclosure costs, interest, and penalties accrued to the date the declaration to defer is filed.

Sec. 14. Section 2, chapter 155, Laws of 1980 and RCW 84.40.030 are each amended to read as follows:

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

Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid. Notwithstanding any other provisions of this section or of any other statute, when the value of any taxable leasehold estate created prior to January 1, 1971 is being determined for assessment years prior to the assessment year 1973, there shall be deducted from what would otherwise be the value thereof the present worth of the rentals and other consideration which may be required of the lessee by the lessor for the unexpired term thereof: PROVIDED, That the foregoing provisions of this sentence shall not apply to any extension or renewal, made after December 31, 1970 of the term of any such estate, or to any such estate after the date, if any, provided for in the agreement for rental renegotiation.

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

(1) Any sales of the property being appraised or similar ((~~property~~)) properties with respect to sales made within the past five years. The appraisal shall take into consideration political restrictions such as zoning as well as physical and environmental influences. The appraisal shall also take into account, (a) in the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (b) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller–developer financing arrangements shall not be used as sales of similar property.

(2) In addition to sales as defined in subsection (1), consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection (2) shall be the dominant factors in valuation. When provisions of this subsection (2) are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.

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

~~((~~~~(4) In valuing any building with an unconventional heating, cooling, domestic water heating or electrical system before December 31, 1987, the value placed on the building shall not exceed the value which would be placed on the building if it had a conventional system.~~))~~

Sec. 15. Section 84.40.040, chapter 15, Laws of 1961 as last amended by section 5, chapter 46, Laws of 1982 1st ex. sess. and RCW 84.40.040 are each amended to read as follows:

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

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

((~~He~~)) The assessor shall make an alphabetical list of the names of all persons in ((~~his~~)) the county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the standard form prescribed by the department of revenue, which statement and list shall include, if required by the form, the year of acquisition and total original cost of personal property in each category of the prescribed form, and shall be signed and verified under penalty of perjury by the person listing the property: PROVIDED, That the assessor may list and value improvements on publicly owned land in the same manner as real property is listed and valued, including conformance with the revaluation program required under chapter 84.41 RCW. Such list and statement shall be filed on or before the last day of ((~~March, but the assessor, upon written request filed on or before such date and for good cause shown therein, shall allow a reasonable extension of time for filing~~)) April. The assessor shall on or before the 1st day of January of each year mail a notice to all such persons at their last known address that such statement and list is required, such notice to be accompanied by the form on which the statement or list is to be made: PROVIDED, That the notice mailed by the assessor to each taxpayer each year shall, if practicable, include the statement and list of personal property of the taxpayer for the preceding year. Upon receipt of such statement and list the assessor shall thereupon determine the true and fair value of the property included in such statement and enter one hundred percent of the same ((~~in~~)) on the assessment ((~~books~~)) roll opposite

the name of the party assessed; and in making such entry in ((~~his~~)) the assessment list, ((~~he~~)) the assessor shall give the name and post office address of the party listing the property, and if the party resides in a city the assessor shall give the street and number or other brief description of ((~~his~~)) the party's residence or place of business. The assessor may, after giving written notice of ((~~his~~)) the action to the person to be assessed, add to the assessment list any taxable property which((~~, in his judgment,~~)) should be included in such list.

Sec. 16. Section 84.40.060, chapter 15, Laws of 1961 as amended by section 37, chapter 149, Laws of 1967 ex. sess. and RCW 84.40.060 are each amended to read as follows:

Upon receipt of the verified statement of personal property, the assessor shall assess the value of such property ((~~and enter fifty percent of the same in his books~~)): PROVIDED, If any property is listed or assessed on or after the 31st day of May, the same shall be legal and binding as if listed and assessed before that time: PROVIDED, FURTHER, That any statement of taxable property which is not signed by the person listing the property and which is not verified under penalty of perjury shall not be accepted by the assessor nor shall it be considered in any way to constitute compliance, or an attempt at compliance, with the listing requirements of this chapter.

Sec. 17. Section 84.40.130, chapter 15, Laws of 1961 as amended by section 38, chapter 149, Laws of 1967 ex. sess. and RCW 84.40.130 are each amended to read as follows:

(1) If any person or corporation shall fail or refuse to deliver to the assessor, on or before the date specified in RCW 84.40.040, a list of the taxable personal property which ((~~he~~)) is required to ((~~list~~)) be listed under this chapter, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, there shall be added to the amount of tax assessed against ((~~him or it~~)) the taxpayer on account of such personal property five percent of the amount of such tax, not to exceed fifty dollars per calendar day, if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues not exceeding twenty-five percent in the aggregate. Such penalty shall be collected in the same manner as the tax to which it is added.

(2) If any person or corporation shall wilfully give a false or fraudulent list, schedule or statement required by this chapter, or shall, with intent to defraud, fail or refuse to deliver any list, schedule or statement required by this chapter, such person or corporation shall be liable for the additional tax properly due or, in the case of wilful failure or refusal to deliver such list, schedule or statement, the total tax properly due; and in addition such person or corporation shall be liable for a penalty of one hundred percent of such additional tax or total tax as the case may be. Such penalty shall be in

lieu of the penalty provided for in subsection (1) of this section. A person or corporation giving a false list, schedule or statement shall not be subject to this penalty if it is shown that the misrepresentations contained therein are entirely attributable to reasonable cause. The taxes and penalties provided for in this subsection shall be recovered in an action in the name of the state of Washington on the complaint of the county assessor or the ((~~board of county commissioners;~~)) county legislative authority and shall, when collected, be paid into the county treasury to the credit of the current expense fund. The provisions of this subsection shall be additional and supplementary to any other provisions of law relating to recovery of property taxes.

Sec. 18. Section 84.40.320, chapter 15, Laws of 1961 as last amended by section 195, chapter 278, Laws of 1975 1st ex. sess. and RCW 84.40.320 are each amended to read as follows:

The assessor shall add up and note the amount of each column in ((~~his~~)) the detail and assessment lists((~~, which he shall have bound in book form~~)) in such manner((~~, to be~~)) as prescribed or approved by the state department of revenue, as will provide a convenient and permanent record of assessment. ((~~He~~)) The assessor shall also make, under proper headings, a ((~~tabular statement showing the footings of the several columns upon each page, and shall add and set down under the respective headings the total amounts of each column, which he shall attach to the highest numbered assessment book;~~)) certification of the assessment rolls and on the ((~~first Monday~~)) 15th day of July ((~~he~~)) shall file the same((~~, properly indexed;~~)) with the clerk of the county board of equalization for the purpose of equalization by the said board. Such ((~~returns~~)) certificate shall be verified by ((~~his~~)) an affidavit, substantially in the following form:

State of Washington, ... County, ss.

I, ..., Assessor ....., do solemnly swear that the ((~~books No. 1 to No. ....., to the last of which this is attached;~~)) assessment rolls and this certificate contain a correct and full list of all the real and personal property ((~~(or personal property, as the case may be)~~)) subject to taxation in ((~~.....~~)) this county for the assessment year 19.., so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case , except as otherwise provided by law, one hundred percent of the true and fair value of such property, to the best of my knowledge and belief, and that the ((~~footings of the several columns in said books, and the tabular statement returned herewith;~~)) assessment rolls and this certificate are correct, as I verily believe.

....., Assessor.

Subscribed and sworn to before me this ..... day of ....., 19...

(L. S.) ....., Auditor of ..... county.

PROVIDED, That the failure of the assessor to ((~~attach his~~)) complete the certificate shall in nowise invalidate the assessment. After the same has been duly equalized by the county ((~~and state~~)) board of equalization, the same shall be delivered to the county assessor((~~, who shall then extend the amount as levied by the state and county boards upon the said detail and assessment lists as by law provided~~)).

NEW SECTION. Sec. 19. A new section is added to chapter 84.40 RCW to read as follows:

The owner or person responsible for payment of taxes on any property may petition the county board of equalization for a change in the assessed valuation placed upon such property by the county assessor. Such petition must be made on forms prescribed or approved by the department of revenue and any petition not conforming to those requirements or not properly completed shall not be considered by the board. The petition must be filed with the board on or before July 1st of the year of the assessment or within thirty days after the date an assessment or value change notice has been mailed, whichever is later.

Sec. 20. Section 1, chapter 13, Laws of 1979 and RCW 84.48.010 are each amended to read as follows:

Prior to July ((~~1st~~)) 15th, the county legislative authority shall form a board for the equalization of the assessment of the property of the county. The members of said board ((~~may~~)) shall receive ((~~up to fifty dollars per day~~)) a per diem amount as set by the county legislative authority for each day of actual attendance of the meeting of the board of equalization to be paid out of the current expense fund of the county: PROVIDED, That when the county legislative authority constitute the board they shall ((~~not~~)) only receive ((~~the per diem allowance~~)) their compensation as members of the county legislative authority. The board of equalization shall meet in open session for this purpose annually on the ((~~first Monday in~~)) 15th day of July and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of the property of the county and proceed to equalize the same, so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, according to the measure of value used by the county assessor in such assessment year, which is presumed to be correct pursuant to RCW 84.40-.0301, and subject to the following rules:

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

Second. They shall reduce the valuation of each tract or lot or item which ((~~in their opinion~~)) is returned above its true and fair value to such price or sum as ((~~they believe~~)) to be the true and fair value thereof.

Third. They shall raise the valuation of each class of personal property which ((~~in their opinion~~)) is returned below its true and fair value to such price or sum as ((~~they believe~~)) to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever ((~~they believe that such~~)) the aggregate value is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as ((~~they believe~~)) to be the true value thereof, after at least five days' notice shall have been given in writing to the owner or agent thereof.

Fourth. They shall((~~, upon complaint in writing of any party aggrieved,~~)) reduce the valuation of each class of personal property enumerated on the detail and assessment list of the current year, which ((~~in their opinion~~)) is returned above its true and fair value, to such price or sum as ((~~they believe~~)) to be the true and fair value thereof; and((~~, upon like complaint,~~)) they shall reduce the aggregate valuation of the personal property of such individual who((~~, in their opinion,~~)) has been assessed at too large a sum((~~,~~)) to such sum or amount as ((~~they believe~~)) was the true and fair value of ((~~his~~)) the personal property.

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

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

The county board of equalization shall meet on the ((~~first Monday in~~)) 15th day of July and may continue in session and adjourn from time to time during a period not to exceed four weeks, but shall remain in session not less than three days: PROVIDED, That((~~, in addition to the several times fixed by statute, any county board of equalization may be reconvened for~~

~~special or general purposes, but not later than three years after the date of adjournment of its regularly convened session by order of the department of revenue: PROVIDED, FURTHER, That~~)) the county board of equalization with the approval of the county legislative authority may convene at any time when petitions filed exceed twenty-five, or ten percent of the number of appeals filed in the preceding year, whichever is greater.

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

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

Sec. 21. Section 3, chapter 55, Laws of 1970 ex. sess. and RCW 84-.48.014 are each amended to read as follows:

The board of equalization of each county shall consist of not less than three nor more than seven members including alternates. Such members shall be appointed by a majority of the ((~~board of county commissioners or like other~~)) members of the county ((~~governmental~~)) legislative authority, and shall be selected ((~~for their knowledge of the values of property in the county~~)) based upon the qualifications established by rule by the department of revenue and shall not be a holder of any elective office nor be an employee of any elected official: PROVIDED, HOWEVER, The county ((~~commissioners~~)) legislative authority may ((~~themselves~~)) itself constitute the board at ((~~their~~)) its discretion. Any member who does not attend the school required by RCW 84.48.042 within one year of appointment or reappointment shall be barred from serving as a member of the board of equalization unless this requirement is waived for the member by the department for just cause.

Sec. 22. Section 11, chapter 55, Laws of 1970 ex. sess. and RCW 84-.48.042 are each amended to read as follows:

The department of revenue shall establish a school for the training of members of the several boards of equalization throughout the state. Sessions of such schools shall, so far as practicable, be held in each district of the ((~~county commissioners'~~)) Washington state association of counties. Every member of the board of equalization of each county ((~~may~~)) shall attend such school within one year following appointment or reappointment.

Sec. 23. Section 3, chapter 284, Laws of 1977 ex. sess. as amended by section 7, chapter 46, Laws of 1982 1st ex. sess. and RCW 84.48.075 are each amended to read as follows:

(1) The department of revenue shall annually, prior to the first Monday in ((~~August~~)) September, determine and submit to each assessor a preliminary indicated ratio for each county: PROVIDED, That the department shall establish rules and regulations pertinent to the determination of the

indicated ratio, the indicated real property ratio and the indicated personal property ratio: PROVIDED FURTHER, That these rules and regulations may provide that data, as is necessary for said determination, which is available from the county assessor of any county and which has been audited as to its validity by the department, shall be utilized by the department in determining the indicated ratio.

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

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

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

Sec. 24. Section 84.48.080, chapter 15, Laws of 1961 as last amended by section 1, chapter 28, Laws of 1982 1st ex. sess. and RCW 84.48.080 are each amended to read as follows:

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

First. The department shall classify all property, real and personal, and shall raise and lower the valuation of any class of property in any county to a value that shall be equal, so far as possible, to the true and fair value of such class as of January 1st of the current year for the purpose of ascertaining the just amount of tax due from each county for state purposes.

Such classification may be on the basis of types of property, geographical areas, or both.

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

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

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

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

NEW SECTION. Sec. 25. A new section is added to chapter 84.48 RCW to read as follows:

The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property, such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer advising the taxpayer that the action of the county assessor is not final and shall be considered by

the county board of equalization, and that such notice shall constitute legal notice of such fact. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared and filed with the county board of equalization, setting forth therein the facts relating to the error.

The county board of equalization shall consider only such matters as appear in the record filed with it by the county assessor or treasurer and shall correct only such matters as are set forth in the record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors mentioned in this section. If the county board of equalization finds that the action of the assessor was not correct, it shall issue a supplementary roll including such corrections as are necessary, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the supplementary roll. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

The county board of equalization shall convene on a day fixed by the board for the purpose of considering such matters as appear in the record filed by the county assessor or treasurer.

NEW SECTION. Sec. 26. A new section is added to chapter 84.48 RCW to read as follows:

The department of revenue shall make such rules consistent with this chapter as shall be necessary or desirable to permit its effective administration. The rules may provide for changes of venue for the various boards of equalization.

Sec. 27. Section 84.52.020, chapter 15, Laws of 1961 as last amended by section 33, chapter 118, Laws of 1975-'76 2nd ex. sess. and RCW 84-.52.020 are each amended to read as follows:

It shall be the duty of the city council or other governing body of cities of the first class, except cities having a population of three hundred thousand or more, the city councils or other governing bodies of cities of the second or third class, the board of directors of school districts of the first class, the superintendent of each educational service district for each constituent second class school district, commissioners of port districts, commissioners of metropolitan park districts, and of all officials or boards of taxing districts within or coextensive with any county required by law to certify to ((~~boards of county commissioners~~)) the county legislative authority, for the purpose of levying district taxes, budgets or estimates of the amounts to be raised by taxation on the assessed valuation of the property in the city or district, through their chairman and clerk, or secretary, to

make and file such certified budget or estimates with the clerk of the ((~~board of county commissioners~~)) county legislative authority on or before the ((~~Wednesday next following the first Monday in October in each year~~)) fifteenth day of November.

Sec. 28. Section 84.52.070, chapter 15, Laws of 1961 and RCW 84-.52.070 are each amended to read as follows:

It shall be the duty of the ((~~board of county commissioners~~)) county legislative authority of each county, on or before the ((~~second Monday in October~~)) thirtieth day of November in each year, to certify to the county assessor of the county the amount of taxes levied upon the property in the county for county purposes, and the respective amounts of taxes levied by the board for each taxing district, within or coextensive with the county, for district purposes, and it shall be the duty of city councils of cities of the first class having a population of three hundred thousand or more, and of city councils of cities of the fourth class, or towns, and of all officials or boards of taxing districts within or coextensive with the county, authorized by law to levy taxes directly and not through the ((~~board of county commissioners~~)) county legislative authority, on or before the ((~~second Monday in October~~)) thirtieth day of November in each year, to certify to the county assessor of the county the amount of taxes levied upon the property within the city or district for city or district purposes. If a levy amount is not certified to the county assessor by the thirtieth day of November, the county assessor shall use no more than the certified levy amount for the previous year for the taxing district: PROVIDED, That this shall not apply to the state levy or when the assessor has not certified assessed values as required by RCW 84.48.130 at least twelve working days prior to November 30th.

Sec. 29. Section 84.52.080, chapter 15, Laws of 1961 as last amended by section 2, chapter 184, Laws of 1985 and RCW 84.52.080 are each amended to read as follows:

(1) The county assessor shall extend the taxes upon the tax rolls in the form herein prescribed. The rate percent necessary to raise the amounts of taxes levied for state and county purposes, and for purposes of taxing districts coextensive with the county, shall be computed upon the assessed value of the property of the county; the rate percent necessary to raise the amount of taxes levied for any taxing district within the county shall be computed upon the assessed value of the property of the district; all taxes assessed against any property shall be added together and extended on the rolls in a column headed consolidated or total tax. In extending any tax, whenever it amounts to a fractional part of a cent greater than five mills it shall be made one cent, and whenever it amounts to five mills or less than five mills it shall be dropped. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate percent necessary to raise the consolidated or total tax and the total tax assessed against the property.

(2) For the purpose of computing the rate necessary to raise the amount of any excess levy in a taxing district which has classified or designated forest land under chapter 84.33 RCW, other than the state, the county assessor shall add the district's timber assessed value, as defined in RCW 84.33.035, to the assessed value of the property: PROVIDED, That for school districts maintenance and operations levies only one-half of the district's timber assessed value or eighty percent of the timber roll of such district in calendar year 1983 as determined under chapter 84.33 RCW, whichever is greater, shall be added.

(3) Upon the completion of such tax extension, it shall be the duty of the county assessor to make in each assessment book, tax roll or list a certificate in the following form:

I, ..., assessor of ..... county, state of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of ..... for the year one thousand nine hundred and .....

Witness my hand this ..... day of ....., 19...

....., County Assessor

(4) The county assessor shall deliver said tax rolls to the county treasurer ((~~on or before the fifteenth day of December~~)), taking ((~~his~~)) receipt therefor, and at the same time the county assessor shall provide the county auditor with an abstract of the tax rolls showing the total amount of taxes collectible in each of the taxing districts.

Sec. 30. Section 84.56.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 211, Laws of 1987 and RCW 84.56.020 are each amended to read as follows:

The county treasurer shall be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. All taxes upon real and personal property made payable by the provisions of this title shall be due and payable to the treasurer as aforesaid on or before the thirtieth day of April and shall be delinquent after that date: PROVIDED, That each tax statement shall include a notice that checks for payment of taxes may be made payable to "Treasurer of ..... County" or other appropriate office, but tax statements shall not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual: PROVIDED FURTHER, That when the total amount of tax on personal property or on any lot, block or tract of real property payable by one person is ((~~ten~~)) thirty dollars or more, and if one-half of such tax be paid on or before the said thirtieth day of April, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall

be delinquent after that date: PROVIDED FURTHER, That when the total amount of tax on any lot, block or tract of real property payable by one person is ((~~ten~~)) thirty dollars or more, and if one-half of such tax be paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of such tax, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date.

Delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the tax, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(1) A penalty of three percent shall be assessed on the amount of tax delinquent on May 31st of the year in which the tax is due.

(2) An additional penalty of eight percent shall be assessed on the total amount of tax delinquent on November 30th of the year in which the tax is due.

(3) Penalties under this section shall not be assessed on taxes that were first delinquent prior to 1982.

For purposes of this chapter, "interest" means both interest and penalties.

All collections of interest on delinquent taxes shall be credited to the county current expense fund; but the cost of foreclosure and sale of real property, and the fees and costs of distraint and sale of personal property, for delinquent taxes, shall, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and shall be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations.

Sec. 31. Section 84.69.050, chapter 15, Laws of 1961 as amended by section 1, chapter 5, Laws of 1973 2nd ex. sess. and RCW 84.69.050 are each amended to read as follows:

The part of the refund representing amounts paid to the state shall be paid from the county general fund and the ((~~state auditor~~)) department of revenue shall, upon the next succeeding settlement with the county, certify this amount refunded to the county: PROVIDED, That when a ((~~state-wide~~)) refund of tax funds pursuant to state levies is required, the ((~~state auditor and~~)) department of revenue shall authorize adjustment procedures whereby counties may deduct from property tax remittances to the state the amount required to cover the state's portion of the refunds.

Sec. 32. Section 84.69.060, chapter 15, Laws of 1961 as amended by section 2, chapter 5, Laws of 1973 2nd ex. sess. and RCW 84.69.060 are each amended to read as follows:

Refunds ordered under this chapter with respect to county ((~~and~~)), state, and taxing district taxes shall be paid by checks drawn upon the appropriate fund by the county treasurer: PROVIDED, That in making refunds ((~~on a county or district wide basis~~)), the county treasurer may make an adjustment on the next property tax payment due for the amount of the refund unless the taxpayer requests immediate refund.

Sec. 33. Section 84.69.140, chapter 15, Laws of 1961 and RCW 84-.69.140 are each amended to read as follows:

In any action in which recovery of taxes is allowed by the court, the plaintiff is entitled to interest on the taxes for which recovery is allowed at a rate ((~~of five percent per annum~~)) as determined under RCW 84.69.100 from the date of collection of the tax to the date of entry of judgment, and such accrued interest shall be included in the judgment. ((~~This section shall not apply to taxes paid before June 12, 1957.~~))

NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

(1) Section 84.52.090, chapter 15, Laws of 1961 and RCW 84.52.090;

(2) Section 84.56.390, chapter 15, Laws of 1961, section 1, chapter 93, Laws of 1965 and RCW 84.56.390; and

(3) Section 84.56.400, chapter 15, Laws of 1961, section 2, chapter 93, Laws of 1965, section 13, chapter 55, Laws of 1970 ex. sess., section 1, chapter 160, Laws of 1975 1st ex. sess. and RCW 84.56.400.

NEW SECTION. Sec. 35. Sections 15, 17, 19, 20, 21, 28, and 30 of this act shall take effect January 1, 1989.

Passed the House February 16, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 223

[Substitute House Bill No. 1845]
FIREARMS—FORFEITURE—CONCEALED PISTOL LICENSES

AN ACT Relating to the forfeiture of handguns and concealed pistol licenses; amending RCW 9.41.070, 63.32.010, and 63.40.010; reenacting and amending RCW 9.41.098; and prescribing penalties.

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

Sec. 1. Section 7, chapter 172, Laws of 1935 as last amended by section 3, chapter 428, Laws of 1985 and RCW 9.41.070 are each amended to read as follows:

(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. Such citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or

(b) Is under twenty-one years of age; or

(c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

(d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or

(e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d) within one year before filing an application to carry a pistol concealed on his person.

The license shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years.

(2) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the license shall:

(a) On the first forfeiture, be revoked by the department of licensing for one year;

(b) On the second forfeiture, be rev[illegible] by the department of licensing for two years;

(c) On the third or subsequent forfeiture, be revoked by the department of licensing for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period.

The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

((~~(2)~~)) (3) The fee for the original issuance of a four-year license shall be twenty dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed; and

(c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

((~~(3)~~)) (4) The fee for the renewal of such license shall be twelve dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund; and

(b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

((~~(4)~~)) (5) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection ((~~(3)~~)) (4) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state ((~~game~~)) wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

((~~(5)~~)) (6) Notwithstanding the requirements of subsections (1) through ((~~(4)~~)) (5) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

((~~(6)~~)) (7) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.

Sec. 2. Section 6, chapter 232, Laws of 1983 as last amended by section 7, chapter 373, Laws of 1987 and by section 91, chapter 506, Laws of 1987 and RCW 9.41.098 are each reenacted and 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 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's 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 recognizance 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~~)). All firearms legal for citizen possession that are judicially forfeited or forfeited due to failure to make a claim under RCW 63-.32.010 or 63.40.010 shall be submitted for auction to commercial sellers. A maximum of ten percent of such firearms may be retained for use by local law enforcement agencies. Before submission for auction, a court may temporarily retain forfeited firearms if needed for evidence. 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 department of wildlife for use in its firearms training program pursuant to RCW 77.32.155. If ((~~the court orders delivery~~)) a firearm is delivered 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~~)) by auction as provided by this subsection. The public auctioning agency shall, as a minimum, maintain a record of all forfeited firearms by manufacturer, model, caliber, serial number, date and circumstances of forfeiture, and final disposition. The records shall be open to public inspection and copying.

(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. 3. Section 1, chapter 100, Laws of 1925 ex. sess. as last amended by section 2, chapter 154, Laws of 1981 and RCW 63.32.010 are each amended to read as follows:

Whenever any personal property shall come into the possession of the police authorities of any city in connection with the official performance of their duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, and in all other cases for a period of sixty days from the time said property came into the possession of the police department, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said city may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the police department subject to giving notice in the manner prescribed in RCW 63.32.020 and the right of the owner, or the owner's legal representative, to reclaim the property within one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the chief of police, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the police department shall provide the city's mayor or council and retain for public inspection a list of such retained items and an estimation of each item's replacement value. At the end of the one-year period any unclaimed firearm shall be disposed of pursuant to RCW 9.41.098(2);

(3) Destroy an item of personal property at the discretion of the chief of police if the following circumstances have occurred:

(a) The item has been in the possession of the police department for a period of at least one year from the time of first possession by the department;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in RCW 63.32.020; and

(c) The chief of police has determined that the item is unsafe and unable to be made safe for use by any member of the general public; or

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.32.020, may be offered by the chief of police to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section.

Sec. 4. Section 1, chapter 104, Laws of 1961 as last amended by section 3, chapter 154, Laws of 1981 and RCW 63.40.010 are each amended to read as follows:

Whenever any personal property, other than vehicles governed by chapter 46.52 RCW, shall come into the possession of the sheriff of any county in connection with the official performance of his duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, and in all other cases for a period of sixty days from the time said property came into the possession of the sheriff's office, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said county sheriff may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the sheriff's office subject to giving notice in the manner prescribed in RCW 63.40.020 and the right of the owner, or his or her legal representative, to reclaim the property within one year after the receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the county sheriff, the property consists of firearms or other items specifically usable in law enforcement work: PROVIDED, That at the end of each calendar year during which there has been such a retention, the sheriff shall provide the county's executive or legislative authority and retain for public inspection a list of such retained items and an estimation of each item's replacement value. At the end of the one-year period any unclaimed firearm shall be disposed of pursuant to RCW 9.41.098(2);

(3) Destroy an item of personal property at the discretion of the county sheriff if the following circumstances have occurred:

(a) The item has been in the possession of the sheriff's office for a period of at least one year from the time of first possession by the office;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in RCW 63.40.020; and

(c) The county sheriff has determined that the item is unsafe and unable to be made safe for use by any member of the general public; or

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.40.020, may be offered by the county sheriff to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 224

[Substitute Senate Bill No. 6195]

TREE SPIKING—HINDERING LOGGING—CLASS C FELONY—CIVIL REMEDY

AN ACT Relating to hindering logging activities; adding new sections to chapter 9.91 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.91 RCW to read as follows:

(1) Any person who maliciously drives or places in any tree, forest material, forest debris, or other wood material any iron, steel, ceramic, or other substance sufficiently hard to injure saws or wood processing or manufacturing equipment, for the purpose of hindering logging or timber harvesting activities, is guilty of a class C felony under chapter 9A.20 RCW.

(2) Any person who, with the intent to use it in a violation of subsection (1) of this section, possesses any iron, steel, ceramic, or other substance sufficiently hard to injure saws or wood processing or manufacturing equipment is guilty of a gross misdemeanor under chapter 9A.20 RCW.

(3) As used in this section the terms "forest debris" and "forest material" have the same meanings as under RCW 76.04.005.

NEW SECTION. Sec. 2. Any person who is damaged by any act prohibited in section 1 of this act may bring a civil action to recover damages sustained, including a reasonable attorney's fee. A party seeking civil damages under this section may recover upon proof of a violation of the provisions of section 1 of this act by a preponderance of the evidence.

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

Passed the Senate March 7, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 225

[Substitute House Bill No. 1729]

CORPORATIONS—TAKEOVERS

AN ACT Relating to corporations; amending RCW 23A.50.010, 23A.50.020, 23A.28-.129, 23A.32.200, and 23A.32.010; repealing RCW 23A.50.901; and declaring an emergency.

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

Sec. 1. Section 1, chapter 4, Laws of 1987 2nd ex. sess. and RCW 23A.50.010 are each amended to read as follows:

The legislature finds that:

(1) Corporations that offer employment and health, retirement, and other benefits to ((~~a large number of~~)) citizens of the state of Washington are vital to the economy of this state and the well-being of all of its citizens;

(2) The welfare of the employees of these corporations is of paramount interest and concern to this state;

(3) Many businesses in this state rely on these corporations to purchase goods and services;

(4) Hostile or unfriendly attempts to gain control of or influence otherwise publicly held corporations can cause corporate management to dissipate a corporation's assets in an effort to resist the takeover by selling or distributing cash or assets, redeeming stock, or taking other steps to increase the short-term gain to shareholders and to dissipate energies required for strategic planning, market development, capital investment decisions, assessment of technologies, and evaluation of competitive challenges that can damage the long-term interests of shareholders and the economic health of the state by reducing or eliminating the ability to finance investments in research and development, new products, facilities and equipment, and by undermining the planning process for those purposes;

(5) Hostile or unfriendly attempts to gain control or influence otherwise publicly held corporations are often highly leveraged pursuant to financing arrangements which assume that an acquirer will promptly obtain access to an acquired corporation's cash or assets and use them, or the proceeds of their sale, to repay acquisition indebtedness;

(6) Hostile or unfriendly attempts to gain control of or influence otherwise publicly held corporations can harm the economy of the state by weakening corporate performance, and causing unemployment, plant closings, reduced charitable donations, declining population base, reduced income to fee-supported local government services, reduced tax base, and reduced income to other businesses; and

(7) The state has a substantial and legitimate interest in regulating domestic corporations and those foreign corporations that have their most significant business contacts with this state and in regulating hostile or unfriendly attempts to gain control of or influence otherwise publicly held domestic corporations and those foreign corporations that employ a large number of citizens of the state, pay significant taxes, and have a substantial economic base in the state.

The legislature intends this chapter to balance the substantial and legitimate interests of the state in domestic corporations and those foreign corporations that employ a large number of citizens of the state and that have a substantial economic base in the state with: The interests of citizens of other states who own shares of such corporations; the interests of the

state of incorporation of such foreign corporations in regulating the internal affairs of corporations incorporated in that state; and the interests of promoting interstate commerce. To this effect, the legislature intends to regulate certain transactions between publicly held corporations and acquiring persons that will tend to harm the long-term health of domestic corporations and of foreign corporations that have their principal executive office and a majority of their assets in this state and that employ a large number of citizens of this state.

((~~(8) This section shall expire December 31, 1988.~~))

Sec. 2. Section 2, chapter 4, Laws of 1987 2nd ex. sess. and RCW 23A.50.020 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Acquiring person" means a person or group of persons, other than the target corporation or a subsidiary of the target corporation, who beneficially owns ten percent or more of the outstanding voting shares of the target corporation. The term "acquiring person" does not include a person who (a) beneficially owns ten percent or more of the outstanding voting shares of the target corporation on the effective date of this section; (b) acquires its shares by gift, inheritance, or in a transaction in which no consideration is exchanged; or (c) exceeds the ten percent threshold as a result of action taken solely by the target corporation, such as redemption of shares, unless that person, by its own action, acquires additional shares of the target corporation. An agent, bank, broker, nominee, or trustee for another person (if the other person is not an acquiring person) who acts in good faith and not for the purpose of circumventing this chapter, is not an acquiring person;

(2) "Affiliate" means a person who directly or indirectly controls, or is controlled by, or is under common control with, a person.

(3) "Associate" means (a) a domestic or foreign corporation or organization of which a person is an officer, director, or partner or in which a person performs a similar function; (b) a direct or indirect beneficial owner of ten percent or more of any class of equity securities of a person; (c) a trust or estate in which a person has a beneficial interest or as to which a person serves as trustee or in a similar fiduciary capacity; and (d) if having the same residence as a person, the person's relative, spouse, or spouse's relative.

(4) "Beneficial ownership," when used with respect to any shares, means ownership by a person:

(a) Who, individually or with or through any of its affiliates or associates, beneficially owns such shares, directly or indirectly; or

(b) Who, individually or with or through any of its affiliates or associates, has (i) the right to acquire the shares, whether the right is exercisable immediately or only after the passage of time, pursuant to any agreement,

arrangement, or understanding, whether or not in writing, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise. A person is not the beneficial owner of shares tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares are accepted for purchase or exchange; or (ii) the right to vote the shares pursuant to any agreement, arrangement, or understanding, whether or not in writing. A person is not the beneficial owner of any shares under subsection (4)(b)(ii) of this section if the agreement, arrangement, or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the exchange act and is not then reportable on a schedule 13D under the exchange act, or any comparable or successor report; or

(c) Who has any agreement, arrangement, or understanding, whether or not in writing, for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in (b)(ii) of this subsection), or disposing of the shares with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.

(5) "Control," "controlling," "controlled by," and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. A person's beneficial ownership of ten percent or more of a domestic or foreign corporation's outstanding voting shares shall create a presumption that such person has control of such corporation. However, a person does not have control of a domestic or foreign corporation if the person holds voting shares, in good faith and not for the purpose of circumventing this chapter, as an agent, bank, broker, nominee, custodian, or trustee for one or more beneficial owners who do not individually or as a group have control of such corporation.

(6) "Exchange act" means the federal securities exchange act of 1934, as amended.

(7) "Market value," in the case of property other than cash or shares, means the fair market value of the property on the date in question as determined by the board of directors of the target corporation in good faith.

(8) "Person" means an individual, domestic or foreign corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

(9) "Significant business transaction" means:

(a) A merger or consolidation of a target corporation or a subsidiary of a target corporation with (i) an acquiring person or (ii) any other domestic

or foreign corporation which is, or after the merger or consolidation would be, an affiliate or associate of the acquiring person;

(b) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition or encumbrance, whether in one transaction or a series of transactions, to or with an acquiring person or an affiliate or associate of an acquiring person of assets of a target corporation or a subsidiary of a target corporation (i) having an aggregate market value equal to five percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the target corporation, (ii) having an aggregate market value equal to five percent or more of the aggregate market value of all the outstanding shares of the target corporation, or (iii) representing five percent or more of the earning power or net income, determined on a consolidated basis, of the target corporation;

(c) ((~~The termination, whether at one time or over a period of time, of five percent or more of the employees of the target corporation and/or its subsidiaries employed in this state after the acquiring person's share acquisition date, unless the target corporation demonstrates by clear and convincing evidence that the termination of employees is not due to the acquiring person's acquisition of ten percent or more of the shares of the corporation~~)) The termination, while the corporation has an acquiring person and as a result of the acquiring person's acquisition of ten percent or more of the shares of the corporation, of five percent or more of the employees of the target corporation and/or its subsidiaries employed in this state, whether at one time or over the five-year period following the share acquisition date. For the purposes of this subsection (c), a termination other than an employee's death or disability or bona fide voluntary retirement, transfer, resignation, or leave of absence shall be presumed to be a termination resulting from the acquiring person's acquisition of shares, which presumption may be rebutted by clear and convincing evidence. A bona fide voluntary transfer of employees between the target corporation and its subsidiaries or between its subsidiaries is not a termination for the purposes of this subsection (c);

(d) The issuance, transfer, or redemption by a target corporation or a subsidiary of a target corporation, whether in one transaction or a series of transactions, of shares or of options, warrants, or rights to acquire shares of a target corporation or a subsidiary of a target corporation to or beneficially owned by an acquiring person or an affiliate or associate of an acquiring person except pursuant to the exercise of warrants or rights to purchase shares offered, or a dividend, distribution, or redemption paid or made pro rata to, all shareholders or holders of options, warrants, or rights to acquire shares of the target corporation, and except for involuntary redemptions permitted by the target corporation's charter or by the law of this state or the state of incorporation;

(e) The adoption of a plan or proposal for the sale of assets, liquidation, or dissolution of a target corporation proposed by, or pursuant to an agreement, arrangement, or understanding, whether or not in writing, with an acquiring person or an affiliate or associate of an acquiring person;

(f) A reclassification of securities, including, without limitation, any stock split, stock dividend, or other distribution of stock in respect of stock, or any reverse stock split, or recapitalization of a target corporation, or a merger or consolidation of a target corporation with a subsidiary of the target corporation, or any other transaction, whether or not with or into or otherwise involving an acquiring person, proposed by, or pursuant to an agreement, arrangement, or understanding, whether or not in writing, with an acquiring person or an affiliate or associate of an acquiring person, that has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of a class or series of voting shares or securities convertible into voting shares of a target corporation or a subsidiary of the target corporation that is directly or indirectly owned by an acquiring person or an affiliate or associate of an acquiring person, except as a result of immaterial changes due to fractional share adjustments;

(g) A receipt by an acquiring person or an affiliate or associate of an acquiring person of the benefit, directly or indirectly, except proportionately as a shareholder of a target corporation, of loans, advances, guarantees, pledges, or other financial assistance or tax credits or other tax advantages provided by or through a target corporation; or

(h) An agreement, contract, or other arrangement providing for any of the transactions in this subsection.

(10) "Share acquisition date" means the date on which a person first becomes an acquiring person of a target corporation.

(11) "Subsidiary" means a domestic or foreign corporation that has a majority of its outstanding voting shares owned, directly or indirectly, by another domestic or foreign corporation.

(12) "Tangible assets" means tangible real and personal property of all kinds. It shall also include leasehold interests in tangible real and personal property.

(13) "Target corporation" means:

(a) Every domestic corporation organized under chapter 23A.12 RCW or any predecessor provision ((~~and every foreign corporation required to have a certificate of authority to transact business in this state pursuant to chapter 23A.32 RCW, if, as of the share acquisition date:~~

~~(a) The assessed valuation of the domestic or foreign corporation's and its subsidiaries' personal and real property in the state for purposes of computing state and local property taxes in the state exceeds the aggregate assessed valuation of its personal and real property in all other states for purposes of computing state and local property taxes in such states;~~

~~(b) The domestic or foreign corporation's principal executive office is located in the state;~~

~~(c) A majority of the domestic or foreign corporation's and its subsidiaries' employees are residents of the state;~~

~~(d) A majority of the domestic or foreign corporation's and its subsidiaries' tangible assets, measured by market value, are located in the state;~~

~~(e) The domestic or foreign corporation and its subsidiaries employ more than twenty thousand residents of the state; and~~

~~(f) The domestic or foreign corporation and its subsidiaries have: (i) More than ten percent of its shareholders of record resident in the state; or (ii) more than ten percent of its shares owned of record by state residents; or (iii) five thousand or more shareholders of record resident in the state))~~ if, as of the share acquisition date, the corporation's principal executive office is located in the state and either a majority of the corporation's employees, together with those of its subsidiaries, are residents of the state or the corporation, together with its subsidiaries, employs more than one thousand residents of the state; and

(b) Every foreign corporation required to have a certificate of authority to transact business in this state pursuant to chapter 23A.32 RCW, if, as of the share acquisition date:

(i) The corporation's principal executive office is located in the state;

(ii) The corporation has: (A) More than ten percent of its shareholders of record resident in the state; or (B) more than ten percent of its shares owned of record by state residents; or (C) one thousand or more shareholders of record resident in the state;

(iii) A majority of the corporation's employees, together with those of its subsidiaries, are residents of the state or the corporation, together with its subsidiaries, employs more than one thousand residents of the state; and

(iv) A majority of the corporation's tangible assets, together with those of its subsidiaries, measured by market value, are located in the state or the corporation, together with its subsidiaries, has more than fifty million dollars' worth of tangible assets located in the state.

For purposes of this subsection, the record date for determining the percentages and numbers of shareholders and shares shall be the last shareholder record date before the event requiring that the determination be made. A shareholder record date shall be determined pursuant to RCW 23A.08.270 for a domestic corporation and the comparable provision of the law of the state in which a foreign corporation is incorporated. If a shareholder record date has not been fixed by the board of directors within the preceding four months, the determination shall be made as of the end of the domestic or foreign corporation's most recent fiscal quarter.

The residence of each shareholder is presumed to be the address appearing in the records of the domestic or foreign corporation. Shares held of

record by brokers or nominees shall be disregarded for purposes of calculating the percentages and numbers specified in this subsection. Shares of a domestic or foreign corporation allocated to the account of an employee or former employee or beneficiaries of employees or former employees of a domestic or foreign corporation and held in a plan that is qualified under section 401(a) of the federal internal revenue code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of the code shall be deemed, for the purposes of this subsection, to be held of record by the employee to whose account such shares are allocated.

A domestic or foreign corporation shall be deemed to be a target corporation if the domestic or foreign corporation's failure to satisfy the requirements of this subsection is caused by the action of, or is the result of a proposal by, an acquiring person or affiliate or associate of an acquiring person.

Sec. 3. Section 6, chapter 4, Laws of 1987 2nd ex. sess. and RCW 23A.28.129 are each amended to read as follows:

((~~(1)~~)) If a corporation engages in activity in violation of chapter 23A.50 RCW, then the secretary of state shall revoke the corporation's certificate of incorporation pursuant to the procedures in RCW 23A.28.125.

((~~(2) This section shall expire on December 31, 1988.~~))

Sec. 4. Section 7, chapter 4, Laws of 1987 2nd ex. sess. and RCW 23A.32.200 are each amended to read as follows:

((~~(1)~~)) If a corporation engages in activity in violation of chapter 23A.50 RCW, then the secretary of state shall revoke the corporation's certificate of authority pursuant to the procedures in RCW 23A.32.160.

((~~(2) This section shall expire on December 31, 1988.~~))

Sec. 5. Section 109, chapter 53, Laws of 1965 as last amended by section 8, chapter 4, Laws of 1987 2nd ex. sess. and RCW 23A.32.010 are each amended to read as follows:

No foreign corporation shall have the right to transact business 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 title to transact in this state any business which a corporation organized under this title is not permitted to transact. 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. ((~~Until December 31, 1988,~~)) Except as provided in chapter 23A.50 RCW, nothing in this title 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 transacting business in this state, a foreign corporation shall not be considered to be

transacting business in this state, for the purposes of this title, by reason of carrying on in this state any one or more of the following activities:

(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 shareholders or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities.

(5) Effecting sales through independent contractors.

(6) 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.

(7) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property.

(8) Securing or collecting debts or enforcing any rights in property securing the same.

(9) Transacting any business in interstate commerce.

(10) 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.

NEW SECTION. Sec. 6. Section 10, chapter 4, Laws of 1987 2nd ex. sess. and RCW 23A.50.901 are each repealed.

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

Passed the House March 9, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 226

[Substitute Senate Bill No. 6332]

MUSEUMS AND HISTORICAL SOCIETIES—UNCLAIMED PROPERTY

AN ACT Relating to unclaimed property in museums and historical societies; amending RCW 63.24.160 and 63.29.020; and adding a new chapter to Title 63 RCW.

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

Sec. 1. Section 5, chapter 154, Laws of 1981 and RCW 63.24.160 are each amended to read as follows:

If property not covered by chapter 63.— RCW (sections 3 through 7 of this 1988 act) remains unclaimed sixty days after notice is given, or, if the owner's identity or address is unknown, sixty days from when notice was attempted, the bailee shall:

(1) If the reasonable aggregate value of the unclaimed property is less than one hundred dollars, donate the property, or proceeds thereof, to a charitable organization exempt from federal income tax under the federal internal revenue code; or

(2) If the reasonable aggregate value of the unclaimed property is one hundred dollars or more, forward the property to the chief of police or sheriff for disposition as unclaimed property under chapter 63.32 or 63.40 RCW.

Sec. 2. Section 2, chapter 179, Laws of 1983 and RCW 63.29.020 are each amended to read as follows:

(1) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned.

(2) Property, with the exception of unredeemed Washington state lottery tickets and unpresented winning parimutuel tickets, is payable and distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

(3) This chapter does not apply to claims drafts issued by insurance companies representing offers to settle claims unliquidated in amount or settled by subsequent drafts or other((s)) means.

(4) This chapter does not apply to property covered by chapter 63.— RCW (sections 3 through 7 of this 1988 act).

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Museum or historical society" means an institution operated by a nonprofit corporation, nonprofit association, or public agency, primarily educational, scientific, historic, or aesthetic in purpose, which owns, borrows, studies, or cares for tangible objects, including archives, and exhibits them as appropriate.

(2) "Property" includes all documents and tangible objects, animate and inanimate, under the care of a museum or historical society which have intrinsic scientific, historic, artistic, or cultural value.

NEW SECTION. Sec. 4. Any property held by a museum or historical society within the state, other than by terms of a loan agreement, that has been held for five years or more and has remained unclaimed shall be deemed to be abandoned. Such property shall become the property of the

museum or historical society if the museum or society has given notice pursuant to section 6 of this act and no assertion of title has been filed for the property within ninety days from the date of the second published notice.

NEW SECTION. Sec. 5. (1) Property subject to a loan agreement which is on loan to a museum or historical society shall be deemed to be donated to the museum or society if no claim is made or action filed to recover the property after termination or expiration of the loan and if the museum or society has given notice pursuant to section 6 of this act and no assertion of title has been filed within ninety days from the date of the second published notice.

(2) A museum or society may terminate a loan of property if the property was loaned to the museum or society for an indefinite term and the property has been held by the museum or society for five years or more. Property on "permanent loan" shall be deemed to be loaned for an indefinite term.

(3) If property was loaned to the museum or society for a specified term, the museum or society may give notice of termination of the loan at any time after expiration of the specified term.

(4) It is the responsibility of the owner of property on loan to a museum or society to notify the museum or society promptly in writing of any change of address or change in ownership of the property.

(5) When a museum or society accepts a loan of property, the museum or society shall inform the owner in writing of the provisions of this chapter.

NEW SECTION. Sec. 6. (1) When a museum or historical society is required to give notice of abandonment of property or of termination of a loan, the museum or historical society shall mail such notice by certified mail, return receipt requested, to the last known owner at the most recent address of such owner as shown on the museum's or society's records. If the museum or society has no address on record, or the museum or society does not receive written proof of receipt of the mailed notice within thirty days of the date the notice was mailed, the museum or society shall publish notice, at least once each week for two consecutive weeks, in a newspaper of general circulation in both the county in which the museum is located and the county in which the last known address, if available, of the owner is located.

(2) The published notice shall contain:

(a) A description of the unclaimed property;

(b) The name and last known address of the owner;

(c) A request that all persons who may have any knowledge of the whereabouts of the owner provide written notice to the museum or society; and

(d) A statement that if written assertion of title is not presented by the owner to the museum or society within ninety days from the date of the second published notice, the property shall be deemed abandoned or donated and shall become the property of the museum or society.

(3) For purposes of this chapter, if the loan of property was made to a branch of a museum or society, the museum or society is deemed to be located in the county in which the branch is located. Otherwise the museum or society is located in the county in which it has its principal place of business.

NEW SECTION. Sec. 7. (1) If no written assertion of title has been presented by the owner to the museum or society within ninety days from the date of the second published notice, title to the property shall vest in the museum or historical society, free of all claims of the owner and of all persons claiming under the owner.

(2) One who purchases or otherwise acquires property from a museum or historical society acquires good title to the property if the museum or society has acquired title to the property under this chapter.

NEW SECTION. Sec. 8. Sections 3 through 7 of this act shall constitute a new chapter in Title 63 RCW.

Passed the Senate March 7, 1988.
Passed the House March 1, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 227

[Substitute House Bill No. 1660]

MOTORCYCLE SKILLS EDUCATION PROGRAM

AN ACT Relating to motorcycle skills education; amending RCW 46.20.505 and 46.37.480; adding a new chapter to Title 46 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. It is the purpose of this chapter to provide the motorcycle riders of the state with an affordable motorcycle skills education program in order to promote motorcycle safety awareness.

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

(1) "Motorcycle skills education program" means a motorcycle rider skills training program to be administered by the department.

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

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

(4) "Motorcycle" means a motorcycle licensed under chapter 46.16 RCW, and does not include motorized bicycles, mopeds, scooters, off-road motorcycles, motorized tricycles, side-car equipped motorcycles, or four-wheel all-terrain vehicles.

NEW SECTION. Sec. 3. (1) The director shall administer and enforce the law pertaining to the motorcycle skills education program as set forth in this chapter.

(2) The director may adopt and enforce reasonable rules that are consistent with this chapter.

(3) The director shall revise the Washington motorcycle safety program to:

(a) Institute a motorcycle skills education course for both novice and advanced motorcycle riders that is a minimum of eight hours and no more than sixteen hours at a cost of no more than thirty dollars;

(b) Encourage the use of loaned or used motorcycles for use in the motorcycle skills education course if the instructor approves them;

(c) Require all instructors to conduct at least three classes in a one-year period to maintain their teaching eligibility;

(d) Encourage the use of radio or intercom equipped helmets when, in the opinion of the instructor, radio or intercom equipped helmets improve the quality of instruction;

(e) Require a biennial report to be submitted to the legislative transportation committee that includes the following:

(i) A narrative history of the program;

(ii) Current biennium program appropriations versus actual program expenditures;

(iii) Historical enrollment statistics and enrollment forecasts;

(iv) Comparative data evaluating motorcycle traffic statistics of program graduates versus nongraduates;

(v) Data on the age of the enrollees;

(vi) Statistical information regarding general trends in motorcycle ridership in Washington state;

(vii) The number of courses offered throughout the biennium;

(viii) Information on course dropout rates.

(4) The department shall obtain and compile information from applicants for a motorcycle endorsement regarding whether they have completed a state approved motorcycle skills education course. This information shall be used for the report required by subsection (3)(e) of this section.

NEW SECTION. Sec. 4. The director may receive gifts, grants, or endowments from private sources which shall be deposited in the motorcycle safety account within the highway safety fund.

Sec. 5. Section 50, chapter 145, Laws of 1967 ex. sess. as last amended by section 2, chapter 454, Laws of 1987 and RCW 46.20.505 are each amended to read as follows:

Every person applying for a special endorsement or a new category of endorsement of a driver's license authorizing such person to drive a motorcycle or a motor-driven cycle shall pay a motorcycle examination fee which is not refundable. The fee for the initial or new category examination

shall be ((~~six~~)) seven dollars and the subsequent renewal examination shall be ((~~four~~)) five dollars. ((~~Four~~)) Five dollars of the initial or new category examination fee and ((~~four~~)) five dollars of any subsequent fee for a renewal shall be deposited in the motorcycle safety education account of the highway safety fund.

Sec. 6. Section 46.37.480, chapter 12, Laws of 1961 as last amended by section 1, chapter 176, Laws of 1987 and RCW 46.37.480 are each amended to read as follows:

(1) No person shall drive any motor vehicle equipped with any television viewer, screen, or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle.

(2) No person shall operate any motor vehicle on a public highway while wearing any headset or earphones connected to any electronic device capable of receiving a radio broadcast or playing a sound recording for the purpose of transmitting a sound to the human auditory senses and which headset or earphones muffle or exclude other sounds. This subsection does not apply to students and instructors participating in a Washington state motorcycle safety program.

(3) This section does not apply to authorized emergency vehicles.

NEW SECTION. Sec. 7. Sections 1 through 4 of this act constitute a new chapter in Title 46 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.

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 March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 228

[Engrossed Substitute Senate Bill No. 6342]

LIGHT, POWER, OR GAS BUSINESSES—CERTAIN TAX INFORMATION TO BE INCLUDED IN CUSTOMER BILLING

AN ACT Relating to light and power bills; adding a new section to chapter 82.16 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 82.16 RCW to read as follows:

Any customer billing issued by a light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state shall include the following information:

(1) The rates and amounts of taxes paid directly by the customer upon products or services rendered by the light and power business or gas distribution business; and

(2) The rate, origin and approximate amount of each tax levied upon the revenue of the light and power business or gas distribution business and added as a component of the amount charged to the customer. Taxes based upon revenue of the light and power business or gas distribution business to be listed on the customer billing need not include taxes levied by the federal government or taxes levied under chapters 54.28, 80.24, or 82.04 RCW.

NEW SECTION. Sec. 2. This act shall take effect on January 1, 1989.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 229

[Engrossed House Bill No. 1884]

TRUCKS—CERTAIN LOADS IN BORDER AREAS—GOVERNMENT SERVICES IN BORDER AREAS

AN ACT Relating to motor vehicles; amending RCW 46.44.041 and 66.08.190; adding a new section to chapter 66.08 RCW; creating a new section; and providing an effective date.

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

Sec. 1. Section 22, chapter 64, Laws of 1975-'76 2nd ex. sess. as last amended by section 3, chapter 351, Laws of 1985 and RCW 46.44.041 are each amended to read as follows:

No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000	42,000						
9	39,000	42,500						
10	40,000	43,500						
11		44,000						
12		45,000	50,000					
13		45,500	50,500					
14		46,500	51,500					
15		47,000	52,000					
16		48,000	52,500	52,500				
17		48,500	53,500	53,500				
18		49,500	54,000	54,000				
19		50,000	54,500	54,500				
20		51,000	55,500	55,500				
21		51,500	56,000	56,000				
22		52,500	56,500	56,500				
23		53,000	57,500	57,500				
24		54,000	58,000	58,000				
25		54,500	58,500	58,500				
26		55,500	59,500	59,500				
27		56,000	60,000	60,000				
28		57,000	60,500	61,000	61,000			
29		57,500	61,500	62,000	62,000			
30		58,500	62,000	63,000	63,000			
31		59,000	62,500	64,000	64,500			
32		60,000	63,500	65,000	65,000			
33			64,000	66,000	66,000			

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
34			64,500	67,000	67,000			
35			65,500	68,000	68,000			
36			66,000	69,500	69,500			
37			66,500	70,500	70,500			
38			67,500	72,000	72,000			
39			68,000	72,500	72,500			
40			68,500	73,000	73,000			
41			69,500	73,500	73,500			
42			70,000	74,000	74,000			
43			70,500	75,000	75,000			
44			71,500	75,500	75,500			
45			72,000	76,000	76,000			
46			72,500	76,500	80,000	80,000		
47			73,500	77,000	81,000	81,000		
48			74,000	78,000	82,000	82,000		
49			74,500	78,500	83,000	83,000		
50			75,500	79,000	84,000	84,000		
51			76,000	80,000	84,500	85,000		
52			76,500	80,500	85,000	86,000		
53			77,500	81,000	86,000	87,000		
54			78,000	81,500	86,500	88,000	91,000	91,000
55			78,500	82,500	87,000	89,000	92,000	92,000
56			79,500	83,000	87,500	90,000	93,000	93,000
57			80,000	83,500	88,000	91,000	94,000	94,000
58				84,000	89,000	92,000	95,000	95,000
59				85,000	89,500	93,500	96,000	96,000
60				85,500	90,000	95,000	97,000	97,000
61				86,000	90,500	95,500	98,000	98,000
62				87,000	91,000	96,000	99,000	99,000
63				87,500	92,000	97,000	100,000	100,000

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
64				88,000	92,500	97,500	101,000	101,000
65				88,500	93,000	98,000	102,000	102,000
66				89,500	93,500	98,500	103,000	103,000
67				90,000	94,000	99,000	104,000	104,000
68				90,500	95,000	99,500	105,000	105,000
69				91,000	95,500	100,000	105,500	105,500
70				92,000	96,000	101,000	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed 1.2 times the load given in the above table divided by the number of axles in that group, and shall not exceed the single axle or tandem axle allowance as set forth elsewhere. For considering the number of axles in a group, the front axle of a unit supplying motive power need not be included in the axle group.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

It is unlawful to operate upon the public highways any single unit vehicle, supported upon three axles or more with a gross weight including load in excess of forty thousand pounds or any combination of vehicles having a gross weight in excess of eighty thousand pounds without first obtaining an additional tonnage permit as provided for in RCW 46.44.095: PROVIDED, That when a combination of vehicles has purchased license tonnage in excess of seventy-two thousand pounds as provided by RCW 46.16.070, such excess license tonnage may be applied to the power unit subject to limitations of RCW 46.44.042 and this section when such vehicle is operated without a trailer.

It is unlawful to operate any vehicle upon the public highways equipped with two axles spaced less than seven feet apart, unless the two

axles are so constructed and mounted in such a manner as to provide oscillation between the two axles and that either one of the two axles will not at any one time carry more than the maximum gross weight allowed for one axle specified in this section.

Loads of not more than eighty thousand pounds which may be legally hauled in the state bordering this state which also has a sales tax, are legal in this state when moving to a port district within four miles of the bordering state except on the interstate system. This provision does not allow the operation of a vehicle combination consisting of a truck tractor and three trailers.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations and procedures in effect in this state on January 4, 1975.

NEW SECTION. Sec. 2. The legislature finds and declares that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. The legislature further finds that it is in the public interest and for the protection of the health, property, and welfare of the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in such areas and to alleviate the impact of such added burdens.

NEW SECTION. Sec. 3. A new section is added to chapter 66.08 RCW to read as follows:

For the purposes of this section, the term "border area" means Blaine, Everson, Friday Harbor, Lynden, Nooksack, Northport, Oroville, Port Angeles, Sumas, and that area of Whatcom county commonly referred to as Point Roberts.

Funds allocable to border areas under RCW 66.08.190 shall be distributed pursuant to a formula developed by the department of community development, by rule, based on border traffic and historical public impacts of law enforcement problems caused by the border on local budgets. All such funds received by Whatcom county pursuant to this allocation shall be spent within the Point Roberts area.

Sec. 4. Section 6, chapter 175, Laws of 1957 and RCW 66.08.190 are each amended to read as follows:

When excess funds are distributed, all moneys subject to distribution shall be disbursed as follows:

(1) Three-tenths of one percent to the department of community development to be allocated to border areas under section 3 of this 1988 act; and

(2) From the amount remaining after distribution under subsection (1) of this section, fifty percent to the general fund of the state, ten percent to the counties of the state, and forty percent to the incorporated cities and towns of the state.

NEW SECTION. Sec. 5. Sections 2 through 4 of this act shall take effect July 1, 1989.

Passed the House March 9, 1988.
Passed the Senate March 8, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 230

[Substitute Senate Bill No. 6240]

WILD MUSHROOMS

AN ACT Relating to the harvesting of wild mushrooms; adding a new chapter to Title 15 RCW; prescribing penalties; and providing an expiration 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) "Department" means the department of agriculture.

(2) "Wild mushroom" means a mushroom that is not cultivated or propagated by artificial means.

(3) "Mushroom buyer" means any person who obtains wild mushrooms from another person for eventual conveyance to a mushroom processor.

(4) "Mushroom harvester" means a person who picks wild mushrooms for sale to a mushroom buyer or processor, or who picks wild mushrooms as an employee of a mushroom buyer or processor.

(5) "Mushroom processor" means a person, other than a restaurant or mushroom buyer, who purchases and processes wild mushrooms in any manner whatsoever for eventual resale.

NEW SECTION. Sec. 2. (1) A person may not act as a mushroom buyer or mushroom processor without an annual license. Any person applying for such a license shall file an application on a form prescribed by the department, and accompanied by the following license fee:

(a) Mushroom buyer, seventy-five dollars;

(b) Mushroom processor, three hundred seventy-five dollars.

(2) The mushroom buyer or mushroom processor shall display the license in a manner visible to the public.

NEW SECTION. Sec. 3. (1) A mushroom buyer who obtains wild mushrooms shall complete a form prescribed by the department that includes the following:

(a) The site at which the mushrooms were purchased by the buyer;

(b) The amount, by weight, of each species of mushrooms obtained;

(c) The approximate location of the harvest site;

(d) The date that the mushrooms were harvested;

(e) The price paid to the harvester;

(f) The name, address, and license number of the mushroom processor to whom the mushrooms are sold;

(g) Any additional information that the department, by rule, may require.

(2) Forms completed under this section shall be mailed or delivered to the department within fifteen days after the end of the month in which the mushrooms were delivered to the processor.

(3) Mushroom processors shall comply with the requirements of this section when obtaining wild mushrooms from any source other than a licensed mushroom buyer.

NEW SECTION. Sec. 4. (1) Mushroom processors shall annually, by December 31, complete and mail or deliver to the department a form prescribed by the department that includes for each variety of mushrooms:

(a) The quantity by weight sold within Washington, within the United States outside Washington, and to individual foreign countries;

(b) Any additional information that the department, by rule, may require.

(2) The department shall publish harvest totals in conjunction with United States department of agriculture crop reporting statistics as well as a compilation of the information received under subsection (1)(a) of this section.

NEW SECTION. Sec. 5. The department shall encourage voluntary reporting of the information prescribed under section 3(1) of this act by recreational mushroom harvesters and mycological societies.

NEW SECTION. Sec. 6. The department is authorized to issue and enforce civil infractions in the manner prescribed under chapter 7.80 RCW. Violations of this chapter or any rule adopted under this chapter constitute a class I civil infraction under chapter 7.80 RCW.

NEW SECTION. Sec. 7. The department may adopt rules for the administration of this chapter.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act shall expire June 30, 1994.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act shall take effect January 1, 1989. The department of agriculture may immediately take such steps as are necessary to ensure that this act is implemented on that date.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 231

[Substitute House Bill No. 1368]
ENFORCEMENT OF JUDGMENTS

AN ACT Relating to enforcement of judgments; amending RCW 6.13.080, 6.13.090, 6.15.010, 6.15.060, 6.17.100, 6.17.110, 6.17.130, 6.17.140, 6.17.160, 6.17.190, 6.21.020, 6.25.070, 6.25.120, 6.26.010, 6.26.020, 6.26.060, 6.27.080, 6.27.090, 6.27.100, 6.27.110, 6.27.130, 6.27.160, 6.27.180, 6.27.190, 6.27.200, 6.27.250, 6.27.270, 6.27.340, 6.27.350, and 61.12.090; reenacting and amending RCW 6.15.020; reenacting RCW 6.25.080 and 6.27.060; adding new sections to chapter 6.01 RCW; adding a new section to chapter 6.26 RCW; repealing RCW 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.050, 6.08.060, and 6.25.210; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 6.01 RCW to read as follows:

The term "certified mail," as used in this title, includes, for mailings to a foreign country, any form of mail that requires or permits a return receipt.

NEW SECTION. Sec. 2. A new section is added to chapter 6.01 RCW to read as follows:

If, before levying under a writ of attachment or execution, a sheriff receives notice that the defendant has become a debtor in a bankruptcy case, the sheriff shall immediately give written notice of that fact to the plaintiff's attorney of record, if any, otherwise to the plaintiff, and shall not be bound to levy under the writ. If, after levying on property under a writ of attachment or execution, a sheriff receives such notice, the sheriff shall give written notice of the attachment or execution, describing the property seized, to the trustee in the bankruptcy case if there is one, otherwise to the bankruptcy court, with a copy to the plaintiff's attorney of record, if any, otherwise to the plaintiff, and shall transfer the property to the trustee on demand or as the bankruptcy court otherwise directs. If no demand is made on the sheriff for surrender of the property and the sheriff thereafter receives notice of the closing of the bankruptcy case, the sheriff shall give written notice by first class mail to the plaintiff's attorney of record, if any, otherwise to the plaintiff, requiring that the plaintiff release the property or

obtain a renewal of the writ from the court, and, if the plaintiff fails to release the property or to apply for a renewal within fourteen days after the mailing of the sheriff's notice, the sheriff shall release the property to the defendant.

Sec. 3. Section 1, chapter 10, Laws of 1982 as last amended by section 208, chapter 442, Laws of 1987 and RCW 6.13.080 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises;

(2) On debts secured (a) by ((~~purchase money~~)) security agreements describing as collateral the mobile home that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises((;)) that have been executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance.

Sec. 4. Section 30, chapter 260, Laws of 1984 as amended by section 209, chapter 442, Laws of 1987 and RCW 6.13.090 are each amended to read as follows:

A judgment against the owner of a homestead shall become a lien on the value of the homestead property in excess of the homestead exemption from the time the judgment creditor records the judgment with the recording officer of the county where the property is located. However, if a judgment of a district court of this state has been transferred to a superior court, the judgment becomes a lien from the time of recording with such recording officer a duly certified abstract of the record of such judgment as it appears in the office of the clerk in which the transfer was originally filed.

Sec. 5. Section 253, page 178, Laws of 1854 as last amended by section 301, chapter 442, Laws of 1987 and RCW 6.15.010 are each amended to read as follows:

Except as provided in RCW 6.15.050, the following personal property shall be exempt from execution, attachment, and garnishment:

(1) All wearing apparel of every individual and family, but not to exceed seven hundred fifty dollars in value in furs, jewelry, and personal ornaments for any individual.

(2) All private libraries of every individual, but not to exceed one thousand dollars in value, and all family pictures and keepsakes.

(3) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(a) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed one thousand five hundred dollars in value;

(b) Provisions and fuel for the comfortable maintenance of the individual or community for three months;

(c) Other property, except personal earnings as provided under RCW ((~~6.15.060(1)~~)) 6.15.050(1), not to exceed five hundred dollars in value, of which not more than one hundred dollars in value may consist of cash, bank accounts, savings and loan accounts, stocks, bonds, or other securities; and

(d) One motor vehicle which is used for personal transportation, not to exceed one thousand two hundred dollars in value.

((~~[(4)]~~)) (4) To each qualified individual, one of the following exemptions:

(a) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed three thousand dollars in value;

(b) To a physician, surgeon, attorney, clergyman, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed three thousand dollars in value;

(c) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed three thousand dollars in value.

For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

Sec. 6. Section 1, page 88, Laws of 1890 as amended by section 1, chapter 64, Laws of 1987 and by section 302, chapter 442, Laws of 1987 and RCW 6.15.020 are each reenacted and amended to read as follows:

(1) Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this section, the same shall be exempt to the family as provided in this section.

(2) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, or seizure by or under any legal process whatever: PROVIDED, That this subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order (as such term is defined in section 206(d) of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1056(d) or in section 401(a)(13) of the internal revenue code of 1954, as amended).

(3) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is subject to the provisions of the federal employee retirement income security act of 1974, as amended, 29 U.S.C. Secs. ((~~101~~)) 1001 through 1461 or that is described in sections 401(a), 403(a), 403(b), 408, or 409 (as in effect before January 1, 1984) of the internal revenue code of 1954, as amended, or both: PROVIDED, That the term "employee benefit plan" shall not include any employee benefit plan that is excluded from the application of the federal employee retirement income security act of 1974, as amended, pursuant to section 4(b)(1) of that act, 29 U.S.C. Sec. 1003(b)(1).

Sec. 7. Section 346, page 88, Laws of 1869 as last amended by section 306, chapter 442, Laws of 1987 and RCW 6.15.060 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, property claimed exempt under RCW 6.15.010 shall be selected by the individual entitled to the exemption, or by the husband or wife entitled to a community exemption, in the manner described in subsection (3) of this section.

(2) If, at the time of seizure under execution or attachment of property exemptible under RCW 6.15.010(3) (a), (b), or (c), the individual or the husband or wife entitled to claim the exemption is not present, then the sheriff or deputy shall make a selection equal in value to the applicable exemptions and, if no appraisement is required and no objection is made by the creditor as permitted under subsection (4) of this section, the officer shall return the same as exempt by inventory. Any selection made as provided shall be prima facie evidence (a) that the property so selected is exempt from execution and attachment, and (b) that the property so selected is not in excess of the values specified for the exemptions.

(3)(a) A debtor who claims personal property as exempt against execution or attachment shall, at any time before sale, deliver to the officer making the levy a list by separate items of the property claimed as exempt, together with an itemized list of all the personal property owned or claimed by the debtor, including money, bonds, bills, notes, claims and demands,

with the residence of the person indebted upon the said bonds, bills, notes, claims and demands, and shall verify such list by affidavit. The officer shall immediately advise the creditor, attorney, or agent of the exemption claim and, if no appraisement is required and no objection is made by the creditor as permitted under subsection (4) of this section, the officer shall return with the process the list of property claimed as exempt.

(b) A debtor who claims personal property exempt against garnishment shall proceed as provided in RCW 6.27.160.

(c) A debtor who claims as a homestead, under chapter 6.13 RCW, a mobile home that is not yet occupied as a homestead and that is located on land not owned by the debtor shall claim the homestead as against a specific levy by delivering to the sheriff who levied on the mobile home, before sale under the levy, a declaration of homestead that contains (i) a declaration that the debtor owns the mobile home, intends to reside therein, and claims it as a homestead, and (ii) a description of the mobile home, a statement where it is located or was located before the levy, and an estimate of its actual cash value.

(4)(a) Except as provided in (b) of this subsection, a creditor, or the agent or attorney of a creditor, who wishes to object to a claim of exemption shall proceed as provided in RCW 6.27.160 and shall give notice of the objection to the officer not later than seven days after the officer's giving notice of the exemption claim.

(b) A creditor, or the agent or attorney of the creditor, who wishes to object to a claim of exemption made to a levying officer, on the ground that the property claimed exceeds exemptible value, may demand appraisement. ((~~In the absence of such demand within seven days following the officer's giving of notice of the claim, the officer shall release to the debtor the property claimed as exempt.~~)) If the creditor, or the agent or attorney of the creditor, demands an appraisement, two disinterested persons shall be chosen to appraise the property, one by the debtor and the other by the creditor, agent or attorney, and these two, if they cannot agree, shall select a third; but if either party fails to choose an appraiser, or the two fail to select a third, or if one or more of the appraisers fail to act, the court shall appoint one or more as the circumstances require. The appraisers shall forthwith proceed to make a list by separate items, of the personal property selected by the debtor as exempt, which they shall decide as exempt, stating the value of each article, and annexing to the list their affidavit to the following effect: "We solemnly swear that to the best of our judgment the above is a fair cash valuation of the property therein described," which affidavit shall be signed by two appraisers at least, and be certified by the officer administering the oaths. The list shall be delivered to the officer holding the execution or attachment and be annexed to and made part of the return, and the property therein specified shall be exempt from levy and sale, but the other personal estate of the debtor shall remain subject to execution,

attachment, or garnishment. Each appraiser shall be entitled to fifteen dollars or such larger fee as shall be fixed by the court, to be paid by the creditor if all the property claimed by the debtor shall be exempt; otherwise to be paid by the debtor.

(c) If, within seven days following the giving of notice to a creditor of an exemption claim, the officer has received no notice from the creditor of an objection to the claim or a demand for appraisement, the officer shall release the claimed property to the debtor.

Sec. 8. Section 4, chapter 329, Laws of 1981 as amended by section 410, chapter 442, Laws of 1987 and RCW 6.17.100 are each amended to read as follows:

(1) Before a writ of execution may issue on any real property, the judgment creditor must file with the court an affidavit as described in subsection (4) of this section and must mail a copy of the affidavit to the judgment debtor at the debtor's last known address.

(2) If the affidavit attests that the premises are occupied or otherwise claimed as a homestead by the judgment debtor, the execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.13.080 must comply with RCW 6.13.100 through 6.13.170.

(3) The term "due diligence," as used in subsection (4) of this section, includes but is not limited to the creditor or the creditor's representative personally visiting the premises, contacting the occupants and inquiring about their relationship to the judgment debtor, contacting immediate neighbors of the premises, and searching the records of the auditor of the county in which the property is located to determine if a declaration of homestead or nonabandonment has been recorded by the judgment debtor. An examination of the debtor in supplemental proceedings on the points to be covered in the affidavit constitutes "due diligence."

(4) The affidavit required by this section shall include:

(a) A statement that the judgment creditor has exercised due diligence to ascertain whether the judgment debtor has sufficient nonexempt personal property to satisfy the judgment with interest and believes that there is not sufficient nonexempt personal property belonging to the judgment debtor to so satisfy the judgment. A list of personal property located shall be attached with an indication of any items that the judgment creditor believes to be exempt.

(b) A statement that the judgment creditor has exercised due diligence to ascertain whether the property is occupied or otherwise claimed by the judgment debtor as a homestead as defined in chapter 6.13 RCW.

(c) A statement based on belief whether the judgment debtor is currently occupying the property as the judgment debtor's principal residence and whether there is a declaration of homestead or nonabandonment of record. If the affidavit alleges that the property is not occupied or claimed

as a homestead, the creditor must list the facts relied upon to reach that conclusion.

(d) If the judgment debtor is not occupying the property and there is no declaration of nonabandonment of record, a statement based on belief whether the judgment debtor has been absent for a period of at least six months, with facts relied upon to reach that conclusion, and, if known, the judgment debtor's current address.

Sec. 9. Section 4, chapter 25, Laws of 1929 as last amended by section 411, chapter 442, Laws of 1987 and RCW 6.17.110 are each amended to read as follows:

(1) The writ of execution shall be issued in the name of the state of Washington, sealed with the seal of the court, and subscribed by the clerk of the court in which the judgment was entered or to which it has been transferred, and shall be directed to the sheriff of the county in which the property is situated. The writ shall intelligibly refer to the judgment, stating the court, the county where the judgment was rendered, the names of the parties, the amount of the judgment if it be for money, and the amount actually due thereon; and if the judgment has been recorded, the writ shall so indicate and shall state the recording number.

(2) Before an execution is delivered on a judgment of a district court of this state, the amount of the judgment, or damages and costs, and the fees due to each person separately shall be entered in the docket and on the back of the execution. In any proceeding to enforce a judgment certified to a district court from the small claims department under RCW 12.40.110, the execution shall include the amount of the judgment owed plus reasonable costs and reasonable attorneys' fees incurred by the judgment creditor in seeking enforcement of the judgment in district court.

(3) A writ shall require substantially as follows:

(a) If the execution is against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of the debtor unless an affidavit has been filed with the court pursuant to RCW 6.17.100, in which case it shall require that the judgment be satisfied out of the real property of the debtor.

(b) If the execution is against real or personal property in the hands of a personal representative, heir, devisee, legatee, tenant of real property, or trustee, it shall require the officer to satisfy the judgment out of such property.

(c) If the execution is for the delivery of real or personal property, it shall particularly describe the property and state its value and require the officer to deliver possession of it to the party entitled thereto, and may, at the same time, require the officer to satisfy any charges, damages, or rents and profits recovered by the same judgment, out of the personal property of the party against whom it was rendered. If the property described in the execution cannot be delivered, and if sufficient personal property cannot be

found to satisfy the judgment, it shall be satisfied out of the real property of the party against whom the judgment was rendered.

(d) If the execution is to enforce obedience to any order, it shall particularly command what is required to be done or to be omitted.

(e) If the nature of the case requires it, the execution may embrace two or more of the requirements of this section.

(f) In all cases the execution shall require the collection of all interest, costs, and increased costs thereon.

Sec. 10. Section 351, page 91, Laws of 1869 as last amended by section 413, chapter 442, Laws of 1987 and RCW 6.17.130 are each amended to read as follows:

When the writ of execution is against the property of the judgment debtor, the sheriff shall set the date of sale and serve on the debtor, in the same manner as service of a summons in a civil action, or cause to be transmitted by both regular mail and certified mail, return receipt requested, a copy of the writ, together with copies of RCW 6.13.010, 6.13.030, and 6.13.040((;)) if real property is to be levied on, or copies of RCW 6.15-.010((;)) and 6.15.060 if personal property is to be levied on, and shall at the time of service, or with the mailing, notify the judgment debtor of the date of sale. If service on the judgment debtor must be effected by publication, only the following notice need be published under the caption of the case:

To ....., Judgment Debtor:

A writ of execution has been issued in the above-captioned case, directed to the sheriff of ..... county, commanding the sheriff as follows:

"WHEREAS, ... [Quoting body of writ of execution]."

The sale date has been set for ..... . YOU MAY HAVE A RIGHT TO EXEMPT PROPERTY from the sale under statutes of this state, including sections 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

Sec. 11. Section 414, chapter 442, Laws of 1987 and RCW 6.17.140 are each amended to read as follows:

The sheriff shall, at a time as near before or after service of the writ on, or mailing of the writ to, the judgment debtor as is possible, execute the writ as follows:

(1) If property has been attached, the sheriff shall indorse on the execution, and pay to the clerk forthwith, if he or she has not already done so, the amount of the proceeds of sales of perishable property or debts due the defendant previously received, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in custody, the sheriff shall sell the same, or sufficient thereof to satisfy the judgment. When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the sheriff may, on instructions from the judgment creditor, levy on other property of the judgment debtor without delay.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, the sheriff shall levy on the property of the judgment debtor, sufficient to satisfy the judgment, in the manner described in RCW 6.17.160.

(4) If, after the judgment is satisfied, any property remains in custody, the sheriff shall deliver it to the judgment debtor.

(5) Until a levy, personal property shall not be affected by the execution.

(6) When property has been sold or debts received on execution, the sheriff shall pay the proceeds to the clerk who issued the writ, for satisfaction of the judgment as commanded in the writ or for return of any excess proceeds to the judgment debtor. No sheriff or other officer may retain any moneys collected on execution more than twenty days before paying the same to the clerk of the court who issued the writ.

Sec. 12. Section 13, page 42, Laws of 1886 as last amended by section 416, chapter 442, Laws of 1987 and RCW 6.17.160 are each amended to read as follows:

The sheriff to whom the writ is directed and delivered shall execute the same without delay as follows:

(1) Real property, including a vendee's interests under a real estate contract, shall be levied on by recording a copy of the writ, together with a description of the property attached, with the recording officer of the county in which the real estate is situated.

(2) Personal property, capable of manual delivery, shall be levied on by taking into custody.

(3) Shares of stock and other investment securities shall be levied on in accordance with the requirements of RCW 62A.8-317.

(4) A fund in court shall be levied on by leaving a copy of the writ with the clerk of the court with notice in writing specifying the fund.

(5) A franchise granted by a public or quasi-public corporation shall be levied on by (a) serving a copy of the writ on, or mailing it to, the judgment debtor as required by RCW 6.17.130 and (b) filing a copy of the writ in the office of the auditor of the county in which the franchise was granted together with a notice in writing that the franchise has been levied on to be sold, specifying the time and place of sale, the name of the owner, the amount of the judgment for which the franchise is to be sold, and the name of the judgment creditor.

(6) A vendor's interest under a real estate contract shall be levied on by (a) recording a copy of the writ, with descriptions of the contract and of the real property covered by the contract, with the recording officer of the county in which the real estate is located and (b) serving a copy of the writ, with a copy of the descriptions, on, or mailing the same to, the judgment debtor and the vendee under the contract in the manner as ((~~required by~~)) described in RCW 6.17.130.

(7) Other intangible personal property may be levied on by serving a copy of the writ on, or mailing it to, the judgment debtor in the manner as required by RCW 6.17.130, together with a description of the property. If the property is a claim on which suit has been commenced, a copy of the writ and of the description shall also be filed with the clerk of the court in which the suit is pending.

Sec. 13. Section 268, page 182, Laws of 1854 as last amended by section 419, chapter 442, Laws of 1987 and RCW 6.17.190 are each amended to read as follows:

(1) After levy of execution upon personal property, the sheriff may permit the judgment debtor to retain possession of the property or any part of it until the day of sale, upon the debtor executing a written bond to the sheriff with sufficient surety, in double the value of such property, to the effect that it shall be delivered to the sheriff at the time and place of sale, and for nondelivery thereof, an action may be maintained upon such bond by the sheriff or the judgment creditor, or the judgment creditor may, on motion supported by affidavit that the property has not been delivered and the judgment remains unpaid, stating the amount unpaid, have judgment against the surety on the bond for the balance remaining due.

(2) In the alternative, the sheriff may appoint the judgment debtor as an agent to keep the property, without bond, upon written approval by the judgment creditor.

Sec. 14. Section 1, chapter 35, Laws of 1935 as last amended by section 602, chapter 442, Laws of 1987 and RCW 6.21.020 are each amended to read as follows:

Before the sale of personal property under execution, order of sale or decree, notice thereof shall be given as follows:

(1) The judgment creditor shall, not less than thirty days prior to the day of sale, cause a copy of the notice of sale to be transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor at the debtor's last known address, and by regular mail to the attorney of record for the judgment debtor, if any. The judgment creditor shall file an affidavit with the court showing compliance with the requirements of this subsection.

(2) The sheriff shall post typed or printed notice of the time and place of the sale in three public places in the county in which the sale is to take place, for a period of not less than four weeks prior to the day of sale.

Sec. 15. Section 807, chapter 442, Laws of 1987 and RCW 6.25.070 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the court shall issue a writ of attachment only after prior notice to defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to defendant and an opportunity for a prior hearing only if:

(a)(i) The attachment is to be levied only on real property, or (ii) if it is to be levied on personal property, the ground alleged for issuance of attachment is one appearing in RCW 6.25.030 (5) through (7) or in RCW 6.25.040(1) or, if attachment is necessary for the court to obtain jurisdiction of the action, the ground alleged is one appearing in RCW 6.25.030 (1) through (4); and

(b) The court finds, on the basis of specific facts alleged in the affidavit, after an ex parte hearing, that there is probable cause to believe the allegations of plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to defendant, after seizure of property under the writ the defendant shall be entitled to prompt notice of the seizure and of a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists. Such notice shall be given in the manner prescribed in subsections (4) and (5) of this section.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice shall be served in the same manner as a summons in a civil action and shall be served together with: (a) ((~~Copies~~)) A copy of the plaintiff's affidavit and a copy of the writ if already issued; (b) if the defendant is an individual, copies of homestead statutes, RCW 6.13.010, 6.13.030, and 6.13.040, if real property is to be attached, or copies of exemption statutes, RCW 6.15.010 and 6.15.060, if personal property is to be attached; and (c) if the plaintiff has proceeded under subsection (2) of this section, a copy of a "Notice of Right to Hearing" in substantially the following form:

NOTICE OF RIGHT TO HEARING

In a lawsuit against you, a Washington court has issued ((~~the~~)) or will issue a Writ of Attachment ((~~included with this notice~~)) against your property. Under the writ a sheriff or sheriff's deputy

has or will put a lien against your real estate or has seized or will seize other property of yours to hold until the court decides the lawsuit.

Delivery of this notice of your rights is required by law.

YOU HAVE THE RIGHT TO A PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have a right to request the hearing. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else your property will be released.

If the defendant is an individual, the following paragraph shall be added to the notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED if it is exempt property as described in the copies of statutes included with this notice and if you claim your exemptions in the way described in the statutes.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To Defendant:

A writ of attachment has been issued in the above-captioned case, directed to the Sheriff of ..... County, commanding the Sheriff as follows:

"WHEREAS, . . . [Quoting body of writ of attachment]"

YOU HAVE A RIGHT TO ASK FOR A HEARING. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for attachment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the attachment will be discharged.

If the defendant is an individual, the following paragraph shall be added to the published notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED if it is exempt property as described in Washington exemption statutes, including sections 6.13.010, 6.13-.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

Sec. 16. Section 6, page 40, Laws of 1886 as last amended by section 133, chapter 202, Laws of 1987 and by section 808, chapter 442, Laws of 1987 and RCW 6.25.080 are each reenacted to read as follows:

(1) Except as provided in subsection (2) of this section, before the writ of attachment shall issue, the plaintiff, or someone in the plaintiff's behalf, shall execute and file with the clerk a surety bond or undertaking in the sum in no case less than three thousand dollars, in the superior court, nor less than five hundred dollars in the district court, and double the amount for which plaintiff demands judgment, or such other amount as the court shall fix, conditional that the plaintiff will prosecute the action without delay and will pay all costs that may be adjudged to the defendant, and all damages that the defendant may sustain by reason of the writ of attachment or of additional writs issued as permitted under RCW 6.25.120, not exceeding the amount specified in such bond or undertaking, as the penalty thereof, should the same be wrongfully, oppressively or maliciously sued out.

(2) If it is desired to attach real estate only, and such fact is stated in the affidavit for attachment, and the ground of attachment is that the defendant is a foreign corporation or is not a resident of the state, or conceals himself or herself or has absconded or is absent from his or her usual place of abode so that the ordinary process of law cannot be served upon him or her, the writ of attachment shall issue without bond or undertaking by or on behalf of the plaintiff.

(3) If the plaintiff sues on an assigned claim and the plaintiff's immediate or any other assignor thereof retains or has any interest in the claim, then the plaintiff and every assignor who retains or has any interest therein shall be jointly and severally liable for all costs that may be adjudged to the defendant and for all damages that the defendant may sustain by reason of the attachment, should the same be wrongfully, oppressively or maliciously sued out.

Sec. 17. Section 10, page 41, Laws of 1886 as amended by section 812, chapter 442, Laws of 1987 and RCW 6.25.120 are each amended to read as follows:

If issuance of a writ of attachment has been ((~~issued~~)) ordered by the court in a case, other writs of attachment may be issued in the same case from the court to different counties, and several may, at the option of the plaintiff, be issued at the same time, or in succession and subsequently, until sufficient property has been attached; but only those executed shall be taxed in the costs, unless otherwise ordered by the court, and if more property is attached in the aggregate than the plaintiff is entitled to have held, the surplus must be abandoned and the plaintiff pay all costs incurred in relation to such surplus. After the first writ has issued, it shall not be necessary for the plaintiff to file any further affidavit or bond unless the court otherwise directs, but the plaintiff shall be entitled to as many writs as may be necessary to secure the amount claimed.

Sec. 18. Section 901, chapter 442, Laws of 1987 and RCW 6.26.010 are each amended to read as follows:

Except as limited by RCW 6.27.040, relating to the state and other public entities, and RCW 6.27.330, relating to continuing liens on earnings, the plaintiff at the time of commencing an action, or at any time thereafter before judgment in an action, may obtain a prejudgment writ of garnishment from a superior or district court of this state before which the action is pending on the following grounds:

(1) If the writ is ((~~directed to other than an employer and~~)) issued for a purpose other than garnishing a defendant's earnings as defined in RCW 6.27.010, (a) on the ground that an attachment has been issued in accordance with chapter 6.25 RCW, (b) on the ground that the plaintiff sues on a debt that is due and owing and unpaid, or (c) on one or more of the grounds for issuance of attachment stated in RCW 6.25.030 or 6.25.040; or

(2) If the writ is directed to an employer for the purpose of garnishing earnings of a defendant, on the grounds that the defendant:

(a) Is not a resident of this state, or is about to move from this state; or

(b) Has concealed himself or herself, absconded, or absented himself or herself so that ordinary process of law cannot be served on him or her; or

(c) Has removed or is about to remove any of his or her property from this state, with intent to delay or defraud his or her creditors.

Sec. 19. Section 3, chapter 264, Laws of 1969 ex. sess. as amended by section 902, chapter 442, Laws of 1987 and RCW 6.26.020 are each amended to read as follows:

In all cases of garnishment before judgment, before the writ shall issue, the plaintiff shall pay the fee described in RCW 6.27.060 and shall execute and file with the clerk a bond with sufficient sureties, to be approved by the clerk of the court issuing the writ, payable to the defendant in the suit, in double the amount of the debt claimed therein, or such other amount as the court shall fix, conditioned that the plaintiff will prosecute the suit without delay and pay all damages and costs that may be adjudged against him or her for wrongfully suing out such garnishment.

Sec. 20. Section 906, chapter 442, Laws of 1987 and RCW 6.26.060 are each amended to read as follows:

(1) When application is made for a prejudgment writ of garnishment, the court shall issue the writ in substantially the form prescribed in RCW 6.27.070((~~, 7.33.120,~~)) and 6.27.100 directing that the garnishee withhold an amount as prescribed in RCW 6.27.090, but, except as provided in subsection (2) of this section, the court shall issue the writ only after prior notice to the defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the plaintiff's claim and that there is probable cause to believe that the alleged ground for garnishment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to the defendant and without an opportunity for a prior hearing only if:

(a) A ground alleged in the plaintiff's affidavit is: (i) A ground appearing in RCW 6.26.010(2)(c) if the writ is to be directed to an employer for the purpose of garnishing the defendant's earnings; or (ii) a ground appearing in RCW 6.25.030 (5) through (7) or in RCW 6.25.040(1) of the attachment chapter; or (iii) if garnishment is necessary to permit the court to acquire jurisdiction over the action, the ground alleged is one appearing in RCW 6.25.030 (1) through (4) or in RCW 6.26.010(2)(a) or (b); and

(b) The court finds on the basis of specific facts, after an ex parte hearing, that there is probable cause to believe the allegations of the plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to the defendant, after service of the writ on the garnishee, the defendant shall be entitled to prompt notice of the garnishment and a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for garnishment exists.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice required under this section shall be served in the same manner as a summons in a civil action and shall be served together with (a) ((~~copies~~)) a copy of plaintiff's affidavit and a copy of the writ if already issued, and (b) a copy of the following "Notice of Right to a Hearing" in substantially the following form or, if defendant is an individual, a copy of the claim form and the "Notice of Garnishment and of Your Rights" prescribed by RCW 6.27.140, in which the following notice is substituted for the first paragraph of said Notice:

NOTICE OF RIGHT TO HEARING

((~~The~~)) A writ of garnishment ((~~served with this Notice~~)) has been or will be issued by a Washington court and has been or will be served on the garnishee defendant. It will require the garnishee defendant to withhold payment of money that may be due to you and to withhold other property of yours that the garnishee may hold or control until a lawsuit in which you are a defendant has been decided by the court. Service of this notice of your rights is required by law.

YOU HAVE A RIGHT TO A PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have the right to request the hearing. At the hearing, the plaintiff must

give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To, Defendant:

A writ of prejudgment garnishment has been issued in the above captioned case, directed to ..... as Garnishee Defendant, commanding the Garnishee to withhold amounts due you or to withhold any of your property in the Garnishee's possession or control for application to any judgment that may be entered for plaintiff in the case.

YOU HAVE A RIGHT TO ASK FOR A HEARING. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for garnishment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

If the defendant is an individual, the following paragraph shall be added to the published notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE THE GARNISHMENT RELEASED if amounts or property withheld are exempt under federal or state statutes, for example, bank accounts in which benefits such as Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Social Security, United States pension, Unemployment Compensation, or Veterans' benefits have been deposited or certain personal property described in section 6.15.010 of the Revised Code of Washington.

NEW SECTION. Sec. 21. A new section is added to chapter 6.26 RCW to read as follows:

If issuance of a writ of garnishment or of a writ of attachment has been ordered by the court in a case, other writs of garnishment to different garnishees may be issued in the same case under the circumstances and restrictions stated in RCW 6.25.120 for issuance of successive writs of attachment.

Sec. 22. Section 4, chapter 264, Laws of 1969 ex. sess. as last amended by section 133, chapter 202, Laws of 1987 and by section 1006, chapter 442, Laws of 1987 and RCW 6.27.060 are each reenacted to read as follows:

The judgment creditor as the plaintiff or someone in the judgment creditor's behalf shall apply for a writ of garnishment by affidavit, stating the following facts: (1) The plaintiff has a judgment wholly or partially unsatisfied in the court from which the writ is sought; (2) the amount alleged to be due under that judgment; (3) the plaintiff has reason to believe, and does believe that the garnishee, stating the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law; and (4) whether or not the garnishee is the employer of the judgment debtor.

The judgment creditor shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the district court the fee of two dollars.

Sec. 23. Section 1008, chapter 442, Laws of 1987 and RCW 6.27.080 are each amended to read as follows:

(1) A writ of garnishment directed to a bank, ((~~banking association, mutual savings bank,~~)) savings and loan association, or credit union that maintains branch offices ((~~may~~)) shall identify either a particular branch of the financial institution or the financial institution as the garnishee defendant((~~, and~~)). The head office of a financial institution shall be considered a separate branch for purposes of this section. The statement required by ((~~RCW 6.27.110(2)~~)) subsection (2) of this section may be incorporated in the writ or served separately.

(2) Service shall be as required by RCW 6.27.110 (1) and (3) and shall be by certified mail, return receipt requested, directed to or by personal service, in the same manner as a summons in a civil action is served, on the manager, cashier, or assistant cashier of the financial institution, except that, if the financial institution, and not a branch, is named as garnishee defendant, service shall be either on the head office or on ((~~any other office~~)) the place designated by the financial institution for receipt of service of process. There shall be served with the writ, as part of the service, a statement in writing signed by the plaintiff or plaintiff's attorney, stating (a) the defendant's place of residence and business, occupation, trade, or profession, or (b) the defendant's federal tax identification number, or (c) the defendant's account number, if such information is not incorporated in the writ. If the statement is not served with the writ and such information is not included in the writ, the service shall be deemed incomplete and the garnishee shall not be held liable for funds owing to the defendant or property of the defendant in the possession of or under the control of the garnishee defendant that it fails to discover.

((~~If the~~)) (3) A writ naming the financial institution as the garnishee defendant shall be effective only to attach deposits of the defendant in the

financial institution and compensation payable for personal services due the defendant from the financial institution. A writ naming a branch ((~~is named~~)) as garnishee defendant((~~, service shall be as required by RCW 6.27.110 and~~)) shall be effective only to attach the deposits, accounts, credits, or other personal property of the defendant (excluding compensation payable for personal services) in the possession or control of the particular branch to which the writ is directed and on which service is made.

A writ of garnishment is effective against property in the possession or control of a financial institution only if the writ of garnishment is directed to and names a branch as garnishee defendant.

Sec. 24. Section 9, chapter 264, Laws of 1969 ex. sess. as amended by section 1009, chapter 442, Laws of 1987 and RCW 6.27.090 are each amend to read as follows:

(1) The writ of garnishment shall set forth in the first paragraph the amount that garnishee is required to hold, which shall be an amount determined as follows: ((~~(1)~~)) (a)(i) If after judgment, the amount of the judgment remaining unsatisfied ((~~or if before judgment, the amount prayed for in the complaint; (2)~~)) plus interest to the date of garnishment, as provided in RCW 4.56.110((~~; (3) plus whichever shall be greater of (a) fifty dollars, (b) statutory costs, or (c) ten percent of (i) the amount of the judgment remaining unsatisfied or (ii) the amount prayed for in the complaint.~~)), plus taxable costs and attorney's fees, or (ii) if before judgment, the amount prayed for in the complaint plus estimated taxable costs of suit and attorneys' fees, together with, (b) whether before or after judgment, estimated costs of garnishment as provided in subsection (2) of this section. The court may, by order, set a higher amount to be held upon a showing of good cause by plaintiff.

(2) Costs recoverable in garnishment proceedings, to be estimated for purposes of subsection (1) of this section, include filing fee, service and affidavit fees, postage and costs of certified mail, answer fee or fees, and a garnishment attorney fee in the amount of the greater of fifty dollars or ten percent of (a) the amount of the judgment remaining unsatisfied or (b) the amount prayed for in the complaint. The garnishment attorney fee shall not exceed two hundred fifty dollars.

Sec. 25. Section 11, chapter 264, Laws of 1969 ex. sess. as last amended by section 1010, chapter 442, Laws of 1987 and RCW 6.27.100 are each amended to read as follows:

The writ shall be substantially in the following form: PROVIDED, That if the writ is issued under a court order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or court order for child support": AND PROVIDED FURTHER, That if the garnishment is for a continuing lien, the form shall be modified as provided in RCW 6.27.340: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the

purpose of garnishing a defendant's earnings, the paragraph relating to the earnings exemption may be omitted:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF .....

....., Plaintiff, vs. ....., Defendant ....., Garnishee Defendant	No. ..... WRIT OF GARNISHMENT

THE STATE OF WASHINGTON TO: ..... Garnishee Defendant

AND TO: ..... Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is $ ....., consisting of:

Balance on Judgment or Amount of Claim	$	.....
Interest under Judgment from ..... to	$	.....
((~~Allowed~~)) Taxable Costs and Attorneys' Fees	$	.....
Estimated Garnishment Costs:		
Filing Fee	$	.....
Service and Affidavit Fees	$	.....
Postage and Costs of Certified Mail	$	.....
((~~Attorney's Fee~~	$	~~50.00~~))
Answer Fee or Fees	$	.....
((~~Other~~)) Garnishment Attorney Fee	$	.....

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court or by this writ, not to pay any debt, whether ((~~wages~~)) earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ by filling in the attached form according to the instructions in this writ and in the

answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, in the envelopes provided.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, or other compensation for personal services or any periodic payments pursuant to a pension or retirement program), the defendant is entitled to receive amounts that are exempt from garnishment under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or ((~~$ ..... for each week of compensation or other periodic payment due~~)) a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer. However, if this writ carries a statement in the heading that "This garnishment is based on a judgment or court order for child support," the basic exempt amount is forty percent of disposable earnings.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and release all additional funds or property to defendant.

YOUR FAILURE TO ANSWER THIS WRIT AS COMMANDED WILL RESULT IN A JUDGMENT BEING ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTERESTS AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT.

Witness, the Honorable ....., Judge of the Superior Court, and the seal thereof, this ..... day of ....., 19...

[Seal]

.....	.....
Attorney for Plaintiff (or Plaintiff, if no attorney)	Clerk of Superior Court
.....	.....
Address	By
	.....
	Address

Sec. 26. Section 13, chapter 264, Laws of 1969 ex. sess. as last amended by section 1011, chapter 442, Laws of 1987 and RCW 6.27.110 are each amended to read as follows:

(1) Service of the writ of garnishment on the garnishee is invalid unless the writ is served together with: (a) Four answer forms as prescribed in RCW 6.27.190; (b) three stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if the plaintiff has no attorney), and the defendant; and (c) cash or a check made payable to the garnishee in the amount of ten dollars.

(2) Except as provided in RCW 6.27.080 for service on a bank, savings and loan association, or credit union, the writ of garnishment shall be mailed to the garnishee by certified mail, return receipt requested, addressed in the same manner as a summons in a civil action, and will be binding upon the garnishee on the day set forth on the return receipt. In the alternative, the writ shall be served by the sheriff of the county in which the garnishee lives or has its place of business or by any person qualified to serve process in the same manner as a summons in a civil action is served((: ~~PROVIDED, HOWEVER, That a writ directed to a bank, banking association, mutual savings bank or savings and loan association maintaining branch offices, as garnishee, shall be served by mail directed to, or by service on, the manager or other officer or cashier or assistant cashier of such bank or association at its office or branch that allegedly carries an account for defendant or allegedly holds or controls property belonging to the defendant and, in addition, there shall be served with the writ, as part of the service, a statement in writing signed by the plaintiff or plaintiff's attorney, stating (a) the defendant's place of residence and business, occupation, trade, or profession, or (b) the defendant's account number, if such information is not incorporated in the writ. If the statement is not served with the writ and such information is not included in the writ, the service shall be deemed incomplete and the garnishee shall not be held liable for funds owing to the defendant that it fails to discover~~)).

(3) If a writ of garnishment is served by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the writ was accompanied by answer forms, addressed envelopes, and cash or a check as required by this section, and noting thereon fees for making the service. If service is made by any person other than a sheriff, such person shall file ((~~a signed return~~)) an affidavit including the same information and ((~~shall also attach to the return an affidavit~~)) showing qualifications to make such service. If a writ of garnishment is served by mail, the person making the mailing shall file ((~~a signed return~~)) an affidavit showing the time, place, and manner of mailing and that the writ was accompanied by answer forms, addressed envelopes, and cash or a check as required by this section and shall attach ((~~to the return a copy of~~)) the return receipt to the affidavit.

Sec. 27. Section 32, chapter 264, Laws of 1969 ex. sess. as amended by section 1013, chapter 442, Laws of 1987 and RCW 6.27.130 are each amended to read as follows:

(1) When a writ is issued under a judgment, on or before the date of service of the writ on the garnishee, the judgment creditor shall mail or cause to be mailed to the judgment debtor, by certified mail, addressed to the last known post office address of the judgment debtor, (a) a copy of the writ and a copy of the judgment or, if it is a district court judgment, a copy of the judgment creditor's affidavit submitted in application for the writ, and (b) if the judgment debtor is an individual, the notice and claim form prescribed in RCW 6.27.140. In the alternative, on or before the day of the service of the writ on the garnishee or within two days thereafter, the stated documents shall be served on the judgment debtor in the same manner as is required for personal service of summons upon a party to an action.

(2) The requirements of this section shall not be jurisdictional, but (a) no disbursement order or judgment against the garnishee defendant shall be entered unless there is on file the return or affidavit of service or mailing required by subsection (3) of this section, and (b) if the copies of the writ and judgment or affidavit, and the notice and claim form if the defendant is an individual, are not mailed or served as herein provided, or if any irregularity appears with respect to the mailing or service, the court, in its discretion, on motion of the judgment debtor promptly made and supported by affidavit showing that the judgment debtor has suffered substantial injury from the plaintiff's failure to mail or otherwise to serve such copies, may set aside the garnishment and award to the judgment debtor an amount equal to the damages suffered because of such failure.

(3) If the service on the judgment debtor is made by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the copy of the writ was accompanied by a copy of a judgment or affidavit, and by a notice and claim form if required by this section, and shall note thereon fees for making such service. If service is made by any person other than a sheriff, such person shall file ((~~a signed return~~)) an affidavit including the same information and ((~~shall also attach to the return an affidavit~~)) showing qualifications to make such service. If service on the judgment debtor is made by mail, the person making the mailing shall file ((~~a signed return~~)) an affidavit including the same information as required for return on service and, in addition, showing the address of the mailing and attaching the return receipt or the mailing should it be returned to the sender as undeliverable.

Sec. 28. Section 1016, chapter 442, Laws of 1987 and RCW 6.27.160 are each amended to read as follows:

(1) A defendant may claim exemptions from garnishment in the manner specified by the statute that creates the exemption or by delivering to or mailing by first class mail to the clerk of the court out of which the writ was

issued a declaration in substantially the following form or in the form set forth in RCW 6.27.140 and mailing a copy of the form by first class mail to the plaintiff or plaintiff's attorney at the address shown on the writ of garnishment, all not later than twenty-eight days after the date stated on the writ except that the time shall be extended to allow a declaration mailed or delivered to the clerk within twenty-one days after service of the writ on the garnishee if service on the garnishee is delayed more than seven days after the date of the writ.

[NAME OF COURT]

..... No. .....
Plaintiff

.....
Defendant

CLAIM OF EXEMPTION

.....
Garnishee

I/We claim the following described property or money as exempt from execution:

.....
.....
.....

I/We believe the property is exempt because:

.....
.....
.....

.....	.....
Print name	Print name of spouse, if married
.....	.....
Signature	Signature
.....	.....
Address	Address
.....	.....
.....	.....
Telephone number	Telephone number
.....	.....

(2) A plaintiff who wishes to object to an exemption claim must, not later than seven days after receipt of the claim, cause to be delivered or mailed to the defendant by first class mail, to the address shown on the exemption claim, a declaration by self, attorney, or agent, alleging the facts on which the objection is based, together with notice of date, time, and place of

a hearing on the objection, which hearing the plaintiff must cause to be noted for a hearing date not later than fourteen days after the receipt of the claim. After a hearing on an objection to an exemption claim, the court shall award costs to the prevailing party and may also award an attorney's fee to the prevailing party if the court concludes that the exemption claim or the objection to the claim was not made in good faith.

(3) If the plaintiff elects not to object to the claim of exemption, the plaintiff shall, not later than ten days after receipt of the claim, obtain from the court and deliver to the garnishee an order directing the garnishee to release such part of the debt, property, or effects as is covered by the exemption claim. If the plaintiff fails to obtain and deliver the order as required or otherwise to effect release of the exempt funds or property, the defendant shall be entitled to recover fifty dollars from the plaintiff, in addition to actual damages suffered by the defendant from the failure to release the exempt property.

Sec. 29. Section 17, chapter 264, Laws of 1969 ex. sess. as amended by section 1018, chapter 442, Laws of 1987 and RCW 6.27.180 are each amended to read as follows:

If the defendant in the principal action causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the writ of garnishment((~~, or after the return of said writ,~~)) or by the clerk of the court out of which the writ was issued, conditioned that the defendant will perform the judgment of the court, the writ of garnishment shall, upon the filing of said bond with the clerk, be immediately discharged, and all proceedings under the writ shall be vacated: PROVIDED, That the garnishee shall not be thereby deprived from recovering any costs in said proceeding, to which the garnishee would otherwise be entitled under this chapter. The bond shall be part of the record and, if judgment is against the defendant, it shall be entered against defendant and the sureties.

Sec. 30. Section 15, chapter 264, Laws of 1969 ex. sess. as amended by section 1019, chapter 442, Laws of 1987 and RCW 6.27.190 are each amended to read as follows:

The answer of the garnishee shall be signed by the garnishee or attorney or if the garnishee is a corporation, by an officer, attorney or duly authorized agent of the garnishee, under penalty of perjury, and the original delivered, either personally or by mail, to the clerk of the court that issued the writ, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant. The answer shall be made on a form substantially as appears in this section, served on the garnishee with the writ, with ((~~exempt~~)) minimum exemption amounts for ((~~relevant~~)) the different pay periods filled in by the plaintiff before service of the answer forms((~~, except~~)): PROVIDED, That, if the garnishment is for a continuing lien, the answer forms shall be as prescribed in RCW 6.27.340 and 6.27.350: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the purpose of

garnishing the defendant's wages, paragraphs relating to the earnings exemptions may be omitted.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF .....

.....	NO. .....
Plaintiff	
vs.	ANSWER
.....	TO WRIT OF
Defendant	GARNISHMENT
.....	
Garnishee Defendant	

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant $..... (On the reverse side of this answer form, or on an attached page, give an explanation of the dollar amount stated, or give reasons why there is uncertainty about your answer.)

If the above amount or any part of it is for personal earnings (that is, compensation payable for personal services, whether called wages, salary, commission, bonus, or otherwise, and including periodic payments pursuant to a pension or retirement program): Garnishee has deducted from this amount $..... which is the exemption to which the defendant is entitled, leaving $..... that garnishee holds under the writ. The exempt amount is calculated as follows:

Total compensation due defendant	$.....
LESS deductions for social security and withholding taxes and any other deduction required by law (list separately and identify)	(($~~.....~~)) $.....
Disposable ((~~wages~~)) earnings	$.....

If the title of this writ indicates that this is a garnishment under a child support judgment, enter forty percent of disposable ((~~wages~~)) earnings: $ ..... . This amount is exempt and must be paid to the defendant at the regular pay time.

If this is not a garnishment for child support, enter seventy-five percent of disposable ((~~wages~~)) earnings: $..... . From the listing in the following paragraph, choose the amount for the relevant pay period and enter that amount: $..... . (If amounts for more than one pay period are due, multiply the preceding amount by the number of pay periods and/or fraction of pay period for which amounts are due and enter that amount: $..... .) The greater of the amounts entered in this paragraph is the exempt amount and must be paid to the defendant at the regular pay time.

Minimum exempt amounts for different pay periods: Weekly $ .....; Biweekly $ .....; Semimonthly $ .....; Monthly $ .....

List all of the personal property or effects of defendant in the garnishee's possession or control when the writ was served. (Use the reverse side of this answer form or attach a schedule if necessary.)

An attorney may answer for the garnishee.

Under penalty of perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

.....	.....
Signature of Garnishee Defendant	Date
.....	.....
Signature of person answering for garnishee	Connection with garnishee

.....
.....
Address of Garnishee

Sec. 31. Section 19, chapter 264, Laws of 1969 ex. sess. as last amended by section 1020, chapter 442, Laws of 1987 and RCW 6.27.200 are each amended to read as follows:

If the garnishee fails to answer the writ within the time prescribed in the writ, after the time to answer the writ has expired and after required returns or affidavits have been filed, showing service on the garnishee and service on or mailing to the defendant, it shall be lawful for the court to render judgment by default against such garnishee, in accordance with rules relating to entry of default judgments, for the full amount claimed by the plaintiff against the defendant, or in case the plaintiff has a judgment against the defendant, for the full amount of the plaintiff's unpaid judgment against the defendant with all accruing interest and costs as prescribed in RCW 6.27.090: PROVIDED, That upon motion by the garnishee at any time ((~~prior to issuance of a writ of execution~~)) within seven days following service on, or mailing to, the garnishee defendant of a copy of a writ of execution or a writ of garnishment under such judgment, the judgment against the garnishee shall be reduced to the amount of any nonexempt funds or property which was actually in the possession of the garnishee at the time the writ was served, plus the cumulative amount of the nonexempt earnings subject to the lien provided for in RCW 6.27.350, or the sum of one hundred dollars, whichever is more, but in no event to exceed the full amount claimed by the plaintiff or the amount of the unpaid judgment

against the principal defendant plus all accruing interest and costs and attorney's fees as prescribed in RCW 6.27.090, and in addition the plaintiff shall be entitled to a reasonable attorney's fee for the plaintiff's response to the garnishee's motion to reduce said judgment against the garnishee under this proviso and the court may allow additional attorney's fees for other actions taken because of the garnishee's failure to answer.

Sec. 32. Section 20, chapter 264, Laws of 1969 ex. sess. as amended by section 1025, chapter 442, Laws of 1987 and RCW 6.27.250 are each amended to read as follows:

(1) If it appears from the answer of the garnishee or if it is otherwise made to appear that the garnishee was indebted to the defendant in any amount, not exempt, when the writ of garnishment was served, and if the required return or affidavit showing service on or mailing to the defendant is on file, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due to the defendant from the garnishee, unless such amount exceeds the amount of the plaintiff's claim or judgment against the defendant with accruing interest and costs and attorney's fees as prescribed in RCW 6.27.090, in which case it shall be for the amount of such claim or judgment, with said interest, costs, and fees.

(2) If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the hearing or trial on controversion or by stipulation of the parties that the garnishee is indebted to the principal defendant in any sum, but that such indebtedness is not matured and is not due and payable, and if the required return or affidavit showing service on or mailing to the defendant is on file, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, the date when such payment is to be made to be specified in the order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found due. In case the garnishee pays the sum at the time specified in the order, the payment shall operate as a discharge, otherwise judgment shall be entered against the garnishee for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in the same manner as other judgments entered against garnishees as provided in this chapter: PROVIDED, That if judgment is rendered in favor of the principal defendant, or if any judgment rendered against the principal defendant is satisfied prior to the date of payment specified in an order of payment entered under this subsection, the garnishee shall not be required to make the payment, nor shall any judgment in such case be entered against the garnishee.

Sec. 33. Section 22, chapter 264, Laws of 1969 ex. sess. as amended by section 1027, chapter 442, Laws of 1987 and RCW 6.27.270 are each amended to read as follows:

If it appears from the garnishee's answer or otherwise that the garnishee had possession or control, when the writ was served, of any personal property or effects of the defendant liable to execution, and if the required return or affidavit showing service on or mailing to the defendant is on file, the court shall render a decree requiring the garnishee to deliver up to the sheriff on demand, and after making arrangements with the sheriff as to time and place of delivery, such personal property or effects or so much of them as may be necessary to satisfy the plaintiff's claim. If a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in the same manner as any other property is sold upon an execution issued on said judgment. If judgment has not been rendered in the principal action, the sheriff shall retain possession of the personal property or effects until the rendition of judgment therein, and, if judgment is thereafter rendered in favor of the plaintiff, said personal property or effects, or sufficient of them to satisfy such judgment, may be sold in the same manner as other property is sold on execution, by virtue of an execution issued on the judgment in the principal action. If judgment is rendered in the action against the plaintiff and in favor of the defendant, such effects and personal property shall be returned to the defendant by the sheriff: PROVIDED, HOWEVER, That if such effects or personal property are of a perishable nature, or the interests of the parties will be subserved by making a sale thereof before judgment, the court may order a sale thereof by the sheriff in the same manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the court that issued the writ, and the same disposition shall be made of the proceeds at the termination of the action as would have been made of the personal property or effects under the provisions of this section in case the sale had not been made.

Sec. 34. Section 6, chapter 61, Laws of 1970 ex. sess. as amended by section 1033, chapter 442, Laws of 1987 and RCW 6.27.340 are each amended to read as follows:

(1) Service of a writ for a continuing lien shall comply fully with RCW 6.27.110.

(2) The caption of the writ shall be marked "CONTINUING LIEN ON EARNINGS" and the following additional paragraph shall be included in the writ form prescribed in RCW 6.27.100:

"THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion of the defendant's earnings due at the time of service of this writ and shall also hold the defendant's nonexempt earnings that accrue through the last payroll period ending on or before SIXTY days after the date of service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY HOLDING THE NONEXEMPT PORTION OF

THE DEFENDANT'S EARNINGS UNDER A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt earnings that accrue from the date the previously served writ or writs terminate and through the last payroll period ending on or before sixty days after the date of termination of the previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED IN THIS WRIT OF GARNISHMENT."

(3) The answer forms served on an employer with the writ shall include in the caption, "ANSWER TO WRIT OF GARNISHMENT FOR CONTINUING LIEN ON EARNINGS," and the following paragraph shall be added as the first paragraph of the answer form prescribed in RCW 6.27.190:

"If you are withholding the defendant's nonexempt ((~~wages~~)) earnings under a previously served writ for a continuing lien, answer only this portion of this form and mail or deliver the forms as directed in the writ. Withhold from the defendant's future nonexempt earnings as directed in the writ, and a second set of answer forms will be forwarded to you later.

ANSWER: I am presently holding the defendant's nonexempt earnings under a previous writ served on ..... that will terminate not later than ....., 19...

.....

If you are NOT withholding the defendant's earnings under a previously served writ for a continuing lien, answer the following portion of this form and mail or deliver the forms as directed in the writ. A second set of answer forms will be forwarded to you later for subsequently withheld earnings."

(4) In the event plaintiff fails to comply with this section, employer may elect to treat the garnishment as one not creating a continuing lien.

Sec. 35. Section 7, chapter 61, Laws of 1970 ex. sess. as amended by section 1034, chapter 442, Laws of 1987 and RCW 6.27.350 are each amended to read as follows:

(1) Where the garnishee's answer to a garnishment for a continuing lien reflects that the defendant is employed by the garnishee, the judgment or balance due thereon as reflected on the writ of garnishment shall become a lien on earnings due at the time of the effective date of the writ, as defined in this subsection, to the extent that they are not exempt from garnishment, and such lien shall continue as to subsequent nonexempt earnings until the total subject to the lien equals the amount stated on the writ of garnishment

or until the expiration of the employer's payroll period ending on or before sixty days after the effective date of the writ, whichever occurs first, except that such lien on subsequent earnings shall terminate sooner if the employment relationship is terminated or if the underlying judgment is vacated, modified, or satisfied in full or if the writ is dismissed. The "effective date" of a writ is the date of service of the writ if there is no previously served writ; otherwise, it is the date of termination of a previously served writ or writs.

(2) At the time of the expected termination of the lien, the plaintiff shall mail to the garnishee cash or a check made payable to the garnishee in the amount of ten dollars, three additional stamped envelopes addressed as provided in RCW 6.27.110, and four additional copies of the answer form ((~~conspicuously marked at the top~~)) prescribed in RCW 6.27.190, (a) with a statement in substantially the following form added as the first paragraph: "ANSWER THE SECOND PART OF THIS FORM WITH RESPECT TO THE TOTAL AMOUNT OF ((~~WAGES~~)) EARNINGS WITHHELD UNDER THIS GARNISHMENT, INCLUDING THE AMOUNT, IF ANY, STATED IN YOUR FIRST ANSWER, AND WITHIN TWENTY DAYS AFTER YOU RECEIVE THESE FORMS, MAIL OR DELIVER THEM AS DIRECTED IN THE WRIT((~~.~~))" and (b) with the following lines substituted for the first sentence of the form prescribed in RCW 6.27.190:

Amount due and owing stated in first answer	$.....
Amount accrued since first answer	$.....

(3) Within twenty days of receipt of the second answer form the garnishee shall file a second answer, in the form as provided in subsection (2) of this section, stating the total amount held subject to the garnishment.

Sec. 36. Section 1, chapter 53, Laws of 1899 and RCW 61.12.090 are each amended to read as follows:

A decree of foreclosure of mortgage or other lien may be enforced by execution as an ordinary judgment or decree for the payment of money. The execution shall contain a description of the property described in the decree. The sheriff shall endorse upon the execution the time when he receives it, and he shall thereupon forthwith proceed to sell such property, or so much thereof as may be necessary to satisfy the judgment, interest and costs upon giving the notice prescribed in RCW ((~~6.21.020~~)) 6.21.030.

NEW SECTION. Sec. 37. The following acts or parts of acts are each repealed:

(1) Section 1, page 377, Laws of 1854, section 1, page 328, Laws of 1860, section 331, page 84, Laws of 1869, section 339, page 70, Laws of 1877, section 335, Code of 1881, section 27, chapter 81, Laws of 1971 and RCW 6.08.010;

(2) Section 2, page 378, Laws of 1854, section 332, page 85, Laws of 1869, section 340, page 71, Laws of 1877, section 336, Code of 1881 and RCW 6.08.020;

(3) Section 4, page 378, Laws of 1854, section 334, page 85, Laws of 1869, section 342, page 71, Laws of 1877, section 338, Code of 1881, section 4, chapter 8, Laws of 1957 and RCW 6.08.030;

(4) Section 5, page 378, Laws of 1854, section 335, page 85, Laws of 1869, section 343, page 71, Laws of 1877, section 339, Code of 1881 and RCW 6.08.040;

(5) Section 6, page 378, Laws of 1854, section 336, page 85, Laws of 1869, section 334, page 71, Laws of 1877, section 340, Code of 1881 and RCW 6.08.050;

(6) Section 3, page 378, Laws of 1854, section 33, page 85, Laws of 1869, section 341, page 71, Laws of 1877, section 337, Code of 1881, section 6, chapter 9, Laws of 1957 and RCW 6.08.060; and

(7) Section 821, chapter 442, Laws of 1987 and RCW 6.25.210.

NEW SECTION. Sec. 38. 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. 39. 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 10, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 232

[Engrossed House Bill No. 1585]

JUVENILE DEPENDENCY PROCEEDINGS—COURT APPOINTED GUARDIAN AD LITEM OR ATTORNEYS

AN ACT Relating to juvenile dependency proceedings; amending RCW 13.34.100, 13.04.021, and 26.12.060; reenacting and amending RCW 26.44.053; and declaring an emergency.

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

Sec. 1. Section 38, chapter 291, Laws of 1977 ex. sess. as amended by section 43, chapter 155, Laws of 1979 and RCW 13.34.100 are each amended to read as follows:

The court((~~, at any stage of a proceeding under this chapter, may~~)) shall appoint an attorney and/or a guardian ad litem for a child who is a

party to the proceedings in all contested proceedings under this chapter unless a court, for good cause, finds the appointment unnecessary. An attorney and/or guardian ad litem may be appointed at the discretion of the court in uncontested proceedings: PROVIDED, That the requirement of a guardian ad litem shall be deemed satisfied if the child is represented by counsel in the proceedings. A party to the proceeding or the party's employee or representative shall not be so appointed. Such attorney and/or guardian ad litem shall receive all notice contemplated for a parent in all proceedings under this chapter. A report by the guardian ad litem to the court shall contain, where relevant, information on the legal status of a child's membership in any Indian tribe or band.

Sec. 2. Section 8, chapter 217, Laws of 1975 1st ex. sess. as amended by section 7, chapter 206, Laws of 1987 and by section 11, chapter 524, Laws of 1987 and RCW 26.44.053 are each reenacted and amended to read as follows:

(1) In any contested judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child in all contested proceedings under this chapter unless a court, for good cause, finds the appointment unnecessary. An attorney and/or guardian ad litem may be appointed at the discretion of the court in uncontested proceedings: PROVIDED, That the requirement of a guardian ad litem shall be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be a child subjected to abuse or neglect shall be a party to any proceeding that

may as a practical matter impair or impede such person's interest in custody or control of his or her child.

***Sec. 2 was vetoed, see message at end of chapter.**

Sec. 3. Section 3, chapter 291, Laws of 1977 ex. sess. as amended by section 2, chapter 155, Laws of 1979 and RCW 13.04.021 are each amended to read as follows:

(1) The juvenile court shall be a division of the superior court. In judicial districts having more than one judge of the superior court, the judges of such court shall annually assign one or more of their number to the juvenile court division. In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear all cases under this chapter and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050. In any judicial district having a family law commissioner appointed pursuant to chapter 26.12 RCW, the family law commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear cases under chapter 13.34 RCW and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050.

(2) Cases in the juvenile court shall be tried without a jury.

Sec. 4. Section 6, chapter 50, Laws of 1949 and RCW 26.12.060 are each amended to read as follows:

The family court commissioners shall: (1) Receive all applications and complaints filed in the family court for the purpose of disposing of them pursuant to this chapter; (2) investigate the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings filed in or transferred to the family court pursuant to this chapter; (3) for the purpose of this chapter, exercise all the powers and perform all the duties of regular court commissioners; (4) hold conciliation conferences with parties to and hearings in proceedings under this chapter and make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide such supervision in connection with the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; ((~~and~~)) (7) cause such other reports to be made and records kept as will indicate the value and extent of such conciliation service; and (8) conduct hearings under chapter 13.34 RCW as provided in RCW 13.04.021.

NEW SECTION. Sec. 5. 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 House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 23, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 23, 1988.

Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, House Bill No. 1585, entitled:

"AN ACT Relating to juvenile dependency proceedings."

This legislation requires that all children in contested dependency proceedings have a court-appointed guardian ad litem or attorney. In uncontested hearings, the court would have discretion in making such an appointment.

The effort to make the dependency and the child abuse and neglect statutes similar to each other in this regard would put the state out of compliance with federal requirements under the Child Abuse Prevention and Treatment Act. The result will be to disqualify the state from eligibility to receive federal funds under the act. Therefore, a veto of this section is necessary to assure continued receipt of federal funds for child abuse and neglect prevention. Return of the child abuse and neglect statute to its original status still ensures that all children in contested dependency proceedings have a court-appointed guardian ad litem or attorney.

With the exception of section 2, House Bill No. 1585 is approved.

CHAPTER 233

[Substitute House Bill No. 1633]
NEIGHBORHOOD SELF-HELP PROJECTS

AN ACT Relating to neighborhood self-help projects; and adding a new section to chapter 35.21 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:

(1) Without regard to competitive bidding laws for public works, a county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may contract with a chamber of commerce, a service organization, a community, youth, or athletic association, or other similar association located and providing service in the immediate neighborhood, for drawing design plans, making improvements to a park, school playground, or public square, installing equipment or artworks, or providing maintenance services for the facility as a community or neighborhood project, and may reimburse the contracting association its expense. The contracting association may use volunteers in the project and provide the volunteers with clothing or tools; meals or refreshments;

accident/injury insurance coverage; and reimbursement of their expenses. The consideration to be received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a value at least equal to three times that of the payment to the contracting association. All payments made by a public entity under the authority of this section for all such contracts in any one year shall not exceed twenty-five thousand dollars or two dollars per resident within the boundaries of the public entity, whichever is greater.

(2) A county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may ratify an agreement, which qualifies under subsection (1) of this section and was made before the effective date of this act.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 234

[Engrossed Substitute Senate Bill No. 6308]

TRAINING OF JUVENILE COURT SYSTEM PERSONNEL IN CHILD DEVELOPMENT AND TREATMENT

AN ACT Relating to juvenile court training; amending RCW 2.56.030; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes the need for appropriate training of juvenile court judges, attorneys, court personnel, and service providers in the dependency system and at-risk youth systems.

Sec. 2. Section 3, chapter 259, Laws of 1957 as last amended by section 6, chapter 363, Laws of 1987 and RCW 2.56.030 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system;

(10) Submit annually, as of February 1st, to the chief justice and the judicial council, a report of the activities of the administrator's office for the preceding calendar year;

(11) Administer programs and standards for the training and education of judicial personnel;

(12) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration and the judicial council, both of which shall make recommendations to the legislature by January 1, 1989. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective; ((~~and~~))

(13) Attend to such other matters as may be assigned by the supreme court of this state; and

(14) Develop a curriculum for a general understanding of child development and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A and 13.34 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected

child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers by July 1, 1988.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 235

[Substitute Senate Bill No. 6419]
PORT DISTRICT CONTRACTS

AN ACT Relating to contracts by port districts; and amending RCW 53.08.120.

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

Sec. 1. Section 2, chapter 348, Laws of 1955 as last amended by section 1, chapter 92, Laws of 1982 and RCW 53.08.120 are each amended to read as follows:

All material required by a port district may be procured in the open market or by contract and all work ordered may be done by contract or day labor. All such contracts for work, the estimated cost of which exceeds ((~~forty~~)) one hundred thousand dollars, shall be let at public bidding upon notice published in a newspaper in the district at least ten days before the letting, calling for sealed bids upon the work, plans and specifications for which shall then be on file in the office of the commission for public inspection. The same notice may call for bids on such work or material based upon plans and specifications submitted by the bidder.

Each port district shall maintain a small works roster which shall be comprised of all contractors who have requested to be on the roster and are, where required by law, properly licensed or registered to perform such work in the state of Washington.

Whenever work is done by contract, the estimated cost of which is ((~~forty~~)) one hundred thousand dollars or less, the managing official of the port district ((~~shall~~)) may invite proposals from all appropriate contractors on the small works roster: PROVIDED, That not less than five separate appropriate contractors shall be invited to submit proposals on any individual contract: PROVIDED FURTHER, That whenever possible, the managing official shall invite at least one proposal from a minority contractor who shall otherwise qualify under this section. Such invitation shall include an estimate of the scope and nature of the work to be performed, and materials and equipment to be furnished.

When awarding such a contract for work, ((~~the estimated cost of which is forty thousand dollars or less~~)) when utilizing proposals from the small works roster, the managing official shall give weight to the contractor submitting the lowest and best proposal, and whenever it would not violate the

public interest, such contracts shall be distributed equally among contractors, including minority contractors, on the small works roster.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 23, 1988.
Filed in Office of Secretary of State March 23, 1988.

CHAPTER 236

[Substitute House Bill No. 1319]
FAMILY LEAVE

AN ACT Relating to notice to employees of employer leave policies, use of employer-granted leave to care for minor children with health conditions, and leave from employment for maternity disability; amending RCW 49.12.005; adding new sections to chapter 49.12 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. The legislature recognizes the changing nature of the work force brought about by increasing numbers of working mothers, single parent households, and dual career families. The legislature finds that the needs of families must be balanced with the demands of the workplace to promote family stability and economic security. The legislature further finds that it is in the public interest for employers to accommodate employees by providing reasonable leaves from work for family reasons. In order to promote family stability, economic security, and the public interest, the legislature hereby establishes a minimum standard for family care. Nothing contained in this act shall prohibit any employer from establishing family care standards more generous than the minimum standards set forth in this act.

NEW SECTION. Sec. 2. The department shall develop and furnish to each employer a poster which describes an employer's obligations and an employee's rights under this 1988 act. The poster must include notice about any state law, rule, or regulation governing maternity disability leave and indicate that federal or local ordinances, laws, rules, or regulations may also apply. The poster must also include a telephone number and an address of the department to enable employees to obtain more information regarding this 1988 act. Each employer must display this poster in a conspicuous place. Every employer shall also post its leave policies, if any, in a conspicuous place. Nothing in this section shall be construed to create a right to continued employment.

NEW SECTION. Sec. 3. An employer shall allow an employee to use the employee's accrued sick leave to care for a child of the employee under the age of eighteen with a health condition that requires treatment or supervision. Use of leave other than accrued sick leave to care for a child under the circumstances described in this section shall be governed by the

terms of the appropriate collective bargaining agreement or employer policy, as applicable.

NEW SECTION. Sec. 4. The department shall administer and investigate violations of sections 2 and 3 of this act.

NEW SECTION. Sec. 5. The department may issue a notice of infraction if the department reasonably believes that an employer has failed to comply with section 2 or 3 of this act. The form of the notice of infraction shall be adopted by rule pursuant to chapter 34.04 RCW. An employer who is found to have committed an infraction under section 2 or 3 of this act may be assessed a monetary penalty not to exceed two hundred dollars for each violation. An employer who repeatedly violates section 2 or 3 of this act may be assessed a monetary penalty not to exceed one thousand dollars for each violation. For purposes of this section, the failure to comply with section 2 of this act as to an employee or the failure to comply with section 3 of this act as to a period of leave sought by an employee shall each constitute separate violations. An employer has twenty days to appeal the notice of infraction. Any appeal of a violation determined to be an infraction shall be heard and determined by an administrative law judge. Monetary penalties collected under this section shall be deposited into the general fund.

NEW SECTION. Sec. 6. Nothing in this act shall be construed to reduce any provision in a collective bargaining agreement.

NEW SECTION. Sec. 7. The department shall notify all employers of the provisions of sections 1 through 6 of this act.

Sec. 8. Section 1, chapter 16, Laws of 1973 2nd ex. sess. and RCW 49.12.005 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "department" means the department of labor and industries.

(2) The term "director" means the director of the department of labor and industries, or his designated representative.

(3) The term "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees and for the purposes of sections 1 through 7 of this 1988 act also includes the state, any state institution, any state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation.

(4) The term "employee" means an employee who is employed in the business of his employer whether by way of manual labor or otherwise.

(5) The term "conditions of labor" shall mean and include the conditions of rest and meal periods for employees including provisions for personal privacy, practices, methods and means by or through which labor or

services are performed by employees and includes bona fide physical qualifications in employment, but shall not include conditions of labor otherwise governed by statutes and rules and regulations relating to industrial safety and health administered by the department.

(6) For the purpose of this 1973 amendatory act a minor is defined to be a person of either sex under the age of eighteen years.

(7) The term "committee" shall mean the industrial welfare committee.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act are each added to chapter 49.12 RCW.

NEW SECTION. Sec. 10. Prior to the effective date of this act, the department of labor and industries may take such steps as are necessary to ensure that sections 1 through 8 of this act are implemented on their effective date.

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 on September 1, 1988.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 237

[Engrossed House Bill No. 1387]

HOMELESS PERSONS—GUARANTEED SECURITY DEPOSITS

AN ACT Relating to guaranteed security deposits for qualified homeless persons; and adding a new chapter to Title 59 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that one of the most difficult problems that temporarily homeless persons or families face in seeking permanent housing is the necessity of paying a security deposit in addition to paying the first month's rent. The security deposit requirement is often impossible for the temporarily homeless person or family to meet because their savings are depleted due, for example, to purchasing temporary shelter in a motel when space at an emergency shelter was not available. A program to guarantee the security deposit for the temporarily homeless person or family will help the poor in this state achieve adequate permanent shelter.

NEW SECTION. Sec. 2. (1) The department of community development shall establish the rental security deposit guarantee program. Through this program the department of community development shall provide grants and technical assistance to local governments or nonprofit corporations, including local housing authorities as defined in RCW 35.82.030, who operate emergency housing shelters or transitional housing programs. The grants are to be used for the payment of residential rental security deposits under this chapter. The technical assistance is to help the local government or nonprofit corporation apply for grants and carry out the program. In order to be eligible for grants under this program, the recipient local government or nonprofit corporation shall provide fifteen percent of the total amount needed for the security deposit. The security deposit may include last month's rent where such rent is required as a normal practice by the landlord.

(2) The grants and matching funds shall be placed by the recipient local government or nonprofit corporation in a revolving loan fund and deposited in a bank or savings institution in an account that is separate from all other funds of the recipient. The funds and interest earned on these funds shall be utilized only as collateral to guarantee the payment of a security deposit required by a residential rental property owner as a condition for entering into a rental agreement with a prospective tenant.

(3) Prospective tenants who are eligible to participate in the rental security deposit guarantee program shall be limited to homeless persons or families who are residing in an emergency shelter or transitional housing operated by a local government or a nonprofit corporation, or to families who are temporarily residing in a park, car, or are otherwise without adequate shelter. The local government or nonprofit corporation shall make a determination regarding the person's or family's eligibility to participate in this program and a determination that a local rental unit is available for occupation. A determination of eligibility shall include, but is not limited to: (a) A determination that the person or family is homeless or is in transitional housing; (b) a verification of income and that the person or family can reasonably make the monthly rental payment; and (c) a determination that the person or family does not have the financial resources to make the rental security deposit.

NEW SECTION. Sec. 3. (1) A three-party contract shall be required of persons participating in the rental deposit guarantee program. The parties to the contract shall be the local government or nonprofit corporation operating a shelter for homeless persons or transitional housing, the tenant, and the rental property owner. The terms of the contract shall include, but are not limited to, all of the following:

(a) The owner of the rental property shall agree to allow the security deposit to be paid by the tenant over a specified number of months as an

addition to the regular rental payment, rather than as a lump-sum payment.

(b) Upon execution of the agreement, the local government or nonprofit corporation shall encumber or reserve funds in a special fund created under section 1 of this act, as a guarantee of the contract, an amount no less than eighty percent of the outstanding balance of the security deposit owed by the tenant to the landlord.

(c) The tenant shall agree to a payment schedule of a specified number of months in which time the total amount of the required deposit shall be paid to the property owner.

(d) At any time during the operation of the guarantee, the property owner shall make all claims first against amounts of the security deposit actually paid by the tenant and secondly against the guarantee. At no time during or after the tenancy may the property owner make claims against the guarantee in excess of that amount agreed to as the guarantee.

(e) If a deduction from the guarantee fund is required, it may be accomplished only to the extent permitted by the contract and in the manner provided by law, including notice to the legal agency or organization. The tenant shall have no direct use of guarantee funds, including funds which may be referred to as "last month's rent."

(2) The department shall make available to local governments and nonprofit corporations receiving grants under this chapter the forms deemed necessary for the contracts and the determination of eligibility. Local governments and nonprofit corporations may develop and use their own forms as long as the forms meet the requirements specified in this chapter.

NEW SECTION. Sec. 4. A local government or nonprofit corporation receiving a grant under this chapter may utilize a portion of the allocation for costs of administering and operating its rental security deposit guarantee program. The department shall approve the amount so utilized prior to expenditure, and the amount may not exceed five percent of the allocation. The staff of the grant recipient shall be responsible for soliciting housing opportunities for low-income homeless persons, coordinating with local low-income rental property owners, making determinations regarding the eligibility of prospective tenants for the program, and providing information to prospective tenants on the tenant-property owner relationship, appropriate treatment of property, and the importance of timely rental payments. The staff of the grant recipient assigned to administer the program shall be reasonably available to property owners and tenants to answer questions or complaints about the program.

NEW SECTION. Sec. 5. The department of community development may adopt rules to implement this chapter, including but not limited to: (1) The eligibility of and the application process for local governments and nonprofit corporations; (2) the criteria by which grants and technical assistance shall be provided to local governments and nonprofit corporations; and

(3) the criteria local governments and nonprofit corporations shall use in entering into contracts with tenants and rental property owners.

NEW SECTION. Sec. 6. The department may receive such gifts, grants, or endowments from public or private sources, as may be made from time to time, in trust or otherwise, to be used by the department for its programs, including the rental security deposit guarantee program. Funds from the housing trust fund, chapter 43.185 RCW, up to one hundred thousand dollars, may be used for the rental security deposit guarantee program by the department of community development, local governments, and nonprofit organizations, provided all the requirements of this chapter and chapter 43.185 RCW are met.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 59 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 February 11, 1988.
Passed the Senate March 8, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 238

[Substitute House Bill No. 1389]

FOOD AND SHELTER LOANS FOR THE POOR AND NEEDY

AN ACT Relating to the federal emergency management agency's emergency food and shelter program; 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 finds that the federal emergency management agency's emergency food and shelter program assists poor and needy persons in the state of Washington by distributing funds to local public and private organizations for the purpose of delivering emergency food and shelter to those persons. The legislature finds that there exists an annual gap of approximately five months beginning with the federal fiscal year in October. This gap is the period of time between when the grants are approved and when the funds are actually distributed, and occurs during the winter months when the need is greatest.

The legislature also finds that the state of Washington can assist the poor and needy with little risk to state funds by lending funds to fill this gap and being repaid when the federal funds are distributed.

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

(1) "Department" means the department of community development.

(2) "Recipient" means a county, city, town, administrative organization, or local public agency or board that accounts for or distributes funds for the emergency food and shelter program.

NEW SECTION. Sec. 3. Subject to legislative appropriation, the department shall make loans to recipients for the purpose of providing food and shelter to the poor and needy. The recipient shall be approved to receive grants or moneys under the federal emergency management agency's emergency food and shelter program prior to the department making the loan to the recipient. There shall be no interest required of recipients of loans. The loan from the department to the recipient shall be repaid to the department from the federal grant or moneys within ten days of the receipt by the recipient of the federal grant or moneys. Moneys repaid under this section shall be deposited in the general fund. In making the loans, the department shall consider, but is not limited to consideration of, the following:

(1) The stability of the recipient and the recipient's ability to repay the loan to the department; and

(2) The need of the requesting recipient relative to the needs of other requesting recipients throughout the state, including a fair allocation of the funds.

NEW SECTION. Sec. 4. The department shall adopt rules for the administration and implementation of this act.

NEW SECTION. Sec. 5. The department shall use all legal means reasonably available to collect in full loans issued under section 3 of this act.

NEW SECTION. Sec. 6. The sum of two hundred sixty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the general fund to the department of community development for the purposes of this act. No more than ten thousand dollars of this appropriation may be used for administrative costs.

NEW SECTION. Sec. 7. Sections 1 through 4 of this act shall expire June 30, 1989.

NEW SECTION. Sec. 8. The expiration of sections 1 through 4 of this act under section 7 of this act shall not be construed as affecting any right acquired or liability or obligation incurred under those sections or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 239

[Substitute House Bill No. 1690]

MANUFACTURED HOMES—SITING ON INDIVIDUAL LOTS—TRANSPORTING—INSTALLATION

AN ACT Relating to manufactured homes; amending RCW 46.44.093 and 43.22.440; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; and adding a new section to chapter 46.76 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.63 RCW to read as follows:

(1) Each comprehensive plan which does not allow for the siting of manufactured homes on individual lots shall be subject to a review by the city of the need and demand for such homes. The review shall be completed by December 31, 1990.

(2) For the purpose of providing an optional reference for cities which choose to allow manufactured homes on individual lots, a "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home as described in this section, except that the term "designated manufactured home" shall not be used except as defined in subsection (2) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 35A.63 RCW to read as follows:

(1) Each comprehensive plan which does not allow for the siting of manufactured homes on individual lots shall be subject to a review by the

city of the need and demand for such homes. The review shall be completed by December 31, 1990.

(2) For the purpose of providing an optional reference for cities which choose to allow manufactured homes on individual lots, a "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home as described in this section, except that the term "designated manufactured home" shall not be used except as defined in subsection (2) of this section.

Sec. 3. Section 46.44.093, chapter 12, Laws of 1961 as amended by section 55, chapter 7, Laws of 1984 and RCW 46.44.093 are each amended to read as follows:

The department of transportation or the local authority is authorized to issue or withhold such special permit at its discretion((~~; or~~)), although where a mobile home is being moved, the verification of a valid license under chapter 46.70 RCW as a mobile home dealer or manufacturer, or under chapter 46.76 RCW as a transporter, shall be done by the department or local government. If the permit is issued, ((~~to~~)) the department or local authority may limit the number of trips, ((~~or to~~)) establish seasonal or other time limitations within which the vehicle described may be operated on the public highways indicated, or otherwise ((~~to~~)) limit or prescribe conditions of operation of the vehicle or vehicles when necessary to assure against undue damage to the road foundation, surfaces, or structures or safety of traffic and may require such undertaking or other security as may be deemed necessary to compensate for injury to any roadway or road structure.

NEW SECTION. Sec. 4. A new section is added to chapter 46.76 RCW to read as follows:

(1) Any person or organization that transports any mobile home or other vehicle for hire shall comply with this chapter and chapter 81.80 RCW. Persons or organizations that do not have a valid permit or meet

other requirements under chapter 81.80 RCW shall not be issued a transporter license or transporter plates to transport mobile homes or other vehicles. RCW 46.76.065(5) applies to persons or organizations that have transporter licenses or plates and do not meet the requirements of chapter 81.80 RCW.

(2) This section does not apply to mobile home manufacturers or dealers that are licensed and delivering the mobile home under chapter 46-.70 RCW.

Sec. 5. Section 1, chapter 153, Laws of 1980 and RCW 43.22.440 are each amended to read as follows:

(1) The legislature finds that inspections of mobile home installation are not done on a consistent basis. Mobile homes provide housing for many people in the state, and improperly installed mobile homes are a serious health and safety risk. Where possible and practical, mobile homes should be treated the same as any housing inhabited or to be inhabited by persons in this state, including housing built according to the state building code.

(2) In consultation with the ((~~governor's~~)) factory assembled structures advisory board for mobile homes, the director of labor and industries shall by rule establish ((~~minimum~~)) uniform standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the federal national mobile home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). These rules regarding the installation of mobile homes shall be enforced and fees charged by the counties and cities in the same manner the state building code is enforced under RCW 19.27.050. ((~~The rules may, to the extent deemed necessary by the director, provide for inspection and enforcement of the standards so established, and may permit the director to appoint an agent, or agents, as necessary to provide for the inspections and enforcement.~~

~~(2)~~)) (3) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 240

[Substitute Senate Bill No. 5595]

SELF-SERVICE STORAGE FACILITIES

AN ACT Relating to self-service storage facilities; amending RCW 18.11.070 and 18-.85.110; adding a new section to chapter 63.29 RCW; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. Sec. 1. This chapter shall be known as the "Washington self-service storage facility act."

NEW SECTION. Sec. 2. For the purposes of this chapter, the following terms shall have the following meanings:

(1) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence. No occupant may use a self-service storage facility for residential purposes.

(2) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his or her agent, or any other person authorized by him or her to manage the facility, or to receive rent from an occupant under a rental agreement.

(3) "Occupant" means a person, or his or her sublessee, successor, or assign, who is entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(4) "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules or any other provision concerning the use and occupancy of a self-service storage facility.

(5) "Personal property" means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, and household items.

(6) "Last known address" means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.

NEW SECTION. Sec. 3. The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, or other charges, present or future, incurred pursuant to the rental agreement, and for expenses necessary for the preservation, sale, or disposition of personal property subject to this chapter. The lien may be enforced consistent with this chapter. However, any lien on a motor vehicle or boat which has attached and is set forth in the documents of title to the

motor vehicle or boat shall have priority over any lien created pursuant to this chapter.

NEW SECTION. Sec. 4. When any part of the rent or other charges due from an occupant remains unpaid for six consecutive days, and the rental agreement so provides, an owner may deny the occupant access to the storage space at a self-service storage facility.

NEW SECTION. Sec. 5. When any part of the rent or other charges due from an occupant remains unpaid for fourteen consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a notice to the occupant's last known address, and to the alternative address specified in section 13(2) of this act, by first class mail, postage prepaid, containing all of the following:

(1) An itemized statement of the owner's claim showing the sums due at the time of the notice and the date when the sums become due.

(2) A statement that the occupant's right to use the storage space will terminate on a specified date (not less than fourteen days after the mailing of the notice) unless all sums due and to become due by that date are paid by the occupant prior to the specified date.

(3) A notice that the occupant may be denied or continue to be denied, as the case may be, access to the storage space after the termination date if the sums are not paid, and that an owner's lien, as provided for in section 3 of this act may be imposed thereafter.

(4) The name, street address, and telephone number of the owner, or his or her designated agent, whom the occupant may contact to respond to the notice.

NEW SECTION. Sec. 6. A notice in substantially the following form shall satisfy the requirements of section 5 of this act:

"PRELIMINARY LIEN NOTICE

to _____ (occupant)

_____ (address)

_____ (state)

You owe and have not paid rent and/or other charges for the use of storage __(space number)__ at __(name and address of self-service storage facility).__

Charges that have been due for more than fourteen days and accruing on or before __(date)__ are itemized as follows:

DUE DATE	DESCRIPTION	AMOUNT
		TOTAL $____

IF this sum is not paid in full before

__(date at least fourteen days from mailing)_____,

your right to use the storage space will terminate, you may be denied, or continue to be denied, access and an owner's lien on any stored property will be imposed. You may pay the sum due and contact the owner at:

(Name)_____
(Address)_____
(State)_____
(Telephone)_____
(Date)_____

(Owner's Signature)"

NEW SECTION. Sec. 7. If a notice has been sent, as required by section 5 of this act, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and remove any property found therein to a place of safe keeping. The owner shall then serve by personal service or send to the occupant, addressed to the occupant's last known address and to the alternative address specified in section 13(2) of this act by certified mail, postage prepaid, a notice of lien sale or notice of disposal which shall state all of the following:

(1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(2) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in subsection (3) of this section.

(3) That the property, other than personal papers and personal effects, may be sold to satisfy the lien after a specified date which is not less than fourteen days from the date of mailing the lien sale notice, or a minimum of forty-two days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. If the total value of property in the storage space is less than one hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of section 9(3) of this act.

(4) That any excess proceeds of the sale or other disposition under section 9(2) of this act over the lien amount and costs of sale and any personal papers and personal effects will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds and personal papers and effects will be turned over to the state as abandoned property as provided in section 21 of this act.

(5) That if the occupant was served with notice of the lien sale by mail, the occupant within six months after the date of the sale may repurchase from any purchaser or subsequent purchaser any of the occupant's property

sold pursuant to section 9 of this act at the price paid by the original purchaser.

(6) That if notice of the lien sale was by personal service, the occupant has no right to repurchase any property sold at the lien sale.

NEW SECTION. Sec. 8. The owner, subject to sections 10 and 11 of this act, may sell the property, other than personal papers and personal effects, upon complying with the requirements set forth in section 9 of this act.

NEW SECTION. Sec. 9. (1) After the expiration of the time given in the notice of lien sale pursuant to section 7 of this act, the property, other than personal papers and personal effects, may be sold or disposed of in a reasonable manner.

(2)(a) If the property has a value of one hundred dollars or more, the sale shall be conducted in a commercially reasonable manner, and, after deducting the amount of the lien and costs of sale, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within six months of the date of sale.

(b) If the property has a value of less than one hundred dollars, the property may be disposed of in a reasonable manner.

(3) No employee or owner, or family member of an employee or owner, may acquire, directly or indirectly, the property sold pursuant to subsection (2)(a) of this section or disposed of pursuant to subsection (2)(b) of this section.

(4) The owner is entitled to retain any interest earned on the excess proceeds until the excess proceeds are claimed by another person or are turned over to the state as abandoned property pursuant to section 21 of this act.

(5) After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address.

NEW SECTION. Sec. 10. Any person who has a perfected security interest under Article 62A.9 RCW of the uniform commercial code may claim any personal property subject to the security interest and subject to a lien pursuant to this chapter by paying the total amount due, as specified in the lien notices, for the storage of the property. Upon payment of the total amount due, the owner shall deliver possession of the particular property subject to the security interest to the person who paid the total amount due. The owner shall not be liable to any person for any action taken pursuant to this section if the owner has fully complied with sections 6 and 7 of this act.

NEW SECTION. Sec. 11. Prior to any sale pursuant to section 9 of this act, any person claiming a right to the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred for particular actions taken pursuant to this chapter. In that event, the goods shall not be sold, but shall be retained by the owner subject to the terms of this chapter pending a court order directing a particular disposition of the property.

NEW SECTION. Sec. 12. (1) Except as provided in subsection (2) of this section, a purchaser in good faith of goods disposed of pursuant to section 9(2) of this act takes the goods free of any rights of persons against whom the lien was claimed, despite noncompliance by the owner of the storage facility with this chapter.

(2) A purchaser or subsequent purchaser shall return the goods to the occupant if the occupant tenders the original purchase price plus any costs incurred by the original purchaser within six months of the date of the purchase, unless the occupant was personally served with notice of the lien sale. If the occupant was personally served, the occupant has no right to repurchase the property.

(3) If the occupant exercises his or her right to repurchase property pursuant to subsection (2) of this section, a subsequent purchaser is entitled to rescind a transaction with a previous purchaser.

NEW SECTION. Sec. 13. (1) Each contract for the rental or lease of individual storage space in a self-service storage facility shall be in writing and shall contain, in addition to the provisions otherwise required or permitted by law to be included, a statement requiring the occupant to disclose any lienholders or secured parties who have an interest in the property that is or will be stored in the self-service storage facility, a statement that the occupant's property will be subject to a claim of lien and may even be sold to satisfy the lien if the rent or other charges due remain unpaid for fourteen consecutive days, and that such actions are authorized by this chapter.

(2) The lien authorized by this chapter shall not attach, unless the rental agreement requests, and provides space for, the occupant to give the name and address of another person to whom the preliminary lien notice and subsequent notices required to be given under this chapter may be sent. Notices sent pursuant to section 5 or 7 of this act shall be sent to the occupant's address and the alternative address, if both addresses are provided by the occupant. Failure of an occupant to provide an alternative address shall not affect an owner's remedies under this chapter or under any other provision of law.

NEW SECTION. Sec. 14. Any insurance protecting the personal property stored within the storage space against fire, theft, or damage is the responsibility of the occupant. The owner is under no obligation to provide insurance.

NEW SECTION. Sec. 15. Nothing in this chapter may be construed to impair or affect the right of the parties to create additional rights, duties, and obligations which do not conflict with the provisions of this chapter. The rights provided by this chapter shall be in addition to all other rights provided by law to a creditor against his or her debtor.

NEW SECTION. Sec. 16. This chapter shall only apply to rental agreements entered into, extended, or renewed after the effective date of this section. Rental agreements entered into before the effective date of this section which provide for monthly rental payments but providing no specific termination date shall be subject to this chapter on the first monthly rental payment date next succeeding the effective date of this section.

NEW SECTION. Sec. 17. All rental agreements entered into before the effective date of this section, and not extended or renewed after that date, or otherwise made subject to this chapter pursuant to section 16 of this act, and the rights, duties, and interests flowing from them, shall remain valid, and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.

NEW SECTION. Sec. 18. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to Article 62A.7 RCW (commencing with RCW 62A.7-101) of the uniform commercial code and this chapter does not apply.

Sec. 19. Section 6, chapter 205, Laws of 1982 as amended by section 4, chapter 324, Laws of 1986 and RCW 18.11.070 are each amended to read as follows:

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

(2) This chapter does not apply to:

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

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

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

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

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

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

(g) An auction held under chapter 19.— RCW (sections 1 through 18 of this 1988 act).

Sec. 20. Section 3, chapter 252, Laws of 1941 as last amended by section 9, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.110 are each amended to read as follows:

This chapter shall not apply to (1) any person who purchases property and/or a business opportunity for his own account, or that of a group of which he is a member, or who, as the owner or part owner of property, and/or a business opportunity, in any way disposes of the same; nor, (2) any duly authorized attorney in fact, or an attorney at law in the performance of his duties; nor, (3) any receiver, trustee in bankruptcy, executor, administrator, guardian, or any person acting under the order of any court, or selling under a deed of trust; nor, (4) any secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or activity specified in any of the definitions under RCW 18.85.010; nor, (5) any owner of rental or lease property, members of the owner's family whether or not residing on such property, or a resident manager of a complex of residential dwelling units wherein such manager resides; nor, (6) any person who manages residential dwelling units on an incidental basis and not as his principal source of income so long as that person does not advertise or hold himself out to the public by any oral or printed solicitation or representation that he is so engaged; nor, (7) only with respect to the rental or lease of individual storage space, any person who owns or manages a self-service storage facility as defined under chapter 19.— RCW (sections 1 through 18 of this 1988 act).

NEW SECTION. Sec. 21. A new section is added to chapter 63.29 RCW to read as follows:

The personal papers and personal effects held by the owner and the excess proceeds of a sale conducted pursuant to section 9 of this act by an owner of a self-service storage facility to satisfy the lien and costs of storage which are not claimed by the occupant of the storage space or any other person which remains unclaimed for more than six months are presumed abandoned.

NEW SECTION. Sec. 22. Sections 1 through 18 of this act shall constitute a new chapter in Title 19 RCW.

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.

Passed the Senate March 10, 1988.
Passed the House March 10, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 241

[House Bill No. 1695]

SCHOOLS—MINIMUM STANDARDS FOR THE EVALUATION OF CERTIFICATED CLASSROOM TEACHERS AND CERTIFICATED SUPPORT PERSONNEL—TIMELINE REVISED

AN ACT Relating to minimum standards for the evaluation of certificated personnel; 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 as amended by section 1, chapter 73, Laws of 1986 and RCW 28A.67.225 are each amended to read as follows:

(1) The superintendent of public instruction shall develop for field-test purposes, and in consultation with local school directors, administrators, parents, students, the business community, and teachers, minimum procedural standards for evaluations ((~~conducted pursuant to RCW 28A.67.065(1)~~)) of certificated classroom teachers and certificated support personnel. 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.

The superintendent of public instruction shall propose the minimum procedural standards for field tests not later than July 1, 1986.

(2) The superintendent of public instruction shall develop or purchase and conduct field tests in local districts during the 1987–88 and 1988–89 school years model evaluation programs, including standardized evaluation instruments, which meet the minimum standards 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 September 1, ((~~1988~~)) 1989, 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~~)) 1990, 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, and January 1, 1989.

Passed the House February 15, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 242

[Senate Bill No. 6638]

NURSES CONDITIONAL SCHOLARSHIP PROGRAM

AN ACT Relating to educational assistance for nurses; adding a new chapter to Title 28B 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 significant changes occurring simultaneously in the health care delivery system and the demography of the national population are resulting in a shortage of qualified nursing personnel which has the potential of dramatically reducing the quality of health care in the state of Washington, particularly in long-term care and critical emergent care. One of the more important contributors to this shortage is the fall in enrollment of students wishing to pursue nursing as a career. In today's complex health care environment, a more integrated approach to the delivery of nursing care may provide comprehensive answers to the problem. The legislature finds that encouraging qualified individuals to enter the nursing profession is of paramount importance to the state in reducing this shortage. The legislature urges the health professions, industry, and philanthropic community organizations to join with state government in assuring the success of this program.

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

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders nursing service as a nurse serving in a nurse shortage area, as defined by the state health coordinating council.

(2) "Institution of higher education" or "institution" means a community college, vocational-technical school, or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(3) "Board" means the higher education coordinating board.

(4) "Eligible student" means a student who has been accepted into a program leading to eligibility for licensure as a licensed practical nurse, or to a program leading to an associate, baccalaureate, or higher degree in nursing or continues satisfactory progress within the program; and has a declared intention to serve in a nurse shortage area upon completion of the educational program.

(5) "Nurse shortage area" means those areas where nurses are in short supply as a result of geographic maldistribution; or specialty areas of nursing, such as geriatrics or critical care, where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The state health coordinating council shall determine nurse shortage areas in the state guided by federal standards of "health manpower shortage areas."

(6) "Forgiven" or "to forgive" or "forgiveness" means to render nursing service in a nurse shortage area in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

NEW SECTION. Sec. 3. The nurses conditional scholarship program is established for students pursuing nursing programs in institutions of higher education. The program shall be administered by the higher education coordinating board in consultation with the state board for community college education. In administering the program, the board shall have the following powers and duties:

(1) Select students to receive conditional scholarships to attend institutions of higher education and the superintendent of public instruction for vocational education, with the assistance of a screening committee;

(2) Adopt rules and guidelines to implement this chapter;

(3) Publicize the program;

(4) Collect and manage repayments from students who do not meet their services obligations under this chapter;

(5) Solicit and accept grants and donations from public and private sources for the program; and

(6) Develop criteria for a contract for service in lieu of the five-year service in a nurse shortage area where appropriate, that may be a combination of service and payment.

NEW SECTION. Sec. 4. The higher education coordinating board shall establish a planning committee to develop criteria for the screening

and selection of recipients of the conditional scholarships. These criteria also may include, for approximately half of the recipients, requirements that those recipients meet the definition of "needy student" under RCW 28B.10.802.

NEW SECTION. Sec. 5. The board may award conditional scholarships to eligible students from the funds appropriated to the board for this purpose, or from any private donations, or any other funds given to the board for this program. The amount of the conditional scholarship awarded an individual shall not exceed three thousand dollars per academic year. Students are eligible to receive conditional scholarships for a maximum of five years while continually enrolled in an approved program.

NEW SECTION. Sec. 6. (1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they serve for five years in nurse shortage areas of the state of Washington. Nurse shortage areas may include geographical areas as a result of maldistribution, or specialty areas of nursing such as gerentology, critical care, or coronary care.

(2) The terms of the repayment, including deferral of the interest, shall be consistent with the terms of the federal guaranteed loan program.

(3) The period for repayment shall be five years, with payments accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a nurse shortage area, as determined by the state health coordinating council, until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of

granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

NEW SECTION. Sec. 7. After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate educational mission.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 28B RCW.

NEW SECTION. Sec. 9. No conditional scholarships may be granted after June 30, 1994.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 243

[Substitute House Bill No. 1783]
NURSING POOLS

AN ACT Relating to nursing pools; reenacting and amending RCW 18.130.040; adding a new chapter to Title 18 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 protect the public's right to high quality health care by assuring that nursing pools employ, procure or refer competent and qualified nursing personnel, and that such nursing personnel are provided to health care facilities in a way to meet the needs of residents and patients.

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

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

(2) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for the delivery of health care services.

(3) "Nursing home" means any nursing home facility licensed pursuant to chapter 18.52 RCW.

(4) "Nursing pool" means any person engaged in the business of providing, procuring, or referring health care personnel for temporary employment in health care facilities, such as licensed nurses or practical nurses, and nursing assistants. "Nursing pool" does not include an individual who only engages in providing his or her own services.

(5) "Person" includes an individual, firm, corporation, partnership, or association.

NEW SECTION. Sec. 3. A person who operates a nursing pool shall register the pool with the director. Each separate location of the business of a nursing pool shall have a separate registration.

The director, by rule, shall establish forms and procedures for the processing of nursing pool registration applications, including the payment of registration fees pursuant to RCW 43.24.086. An application for a nursing pool registration shall include at least the following information:

(1) The names and addresses of the owner or owners of the nursing pool; and

(2) If the owner is a corporation, copies of its articles of incorporation and current bylaws, together with the names and addresses of its officers and directors.

A registration issued by the director in accordance with this section shall remain effective for a period of one year from the date of its issuance unless the registration is revoked or suspended pursuant to section 4(4) of this act, or unless the nursing pool is sold or ownership or management is transferred, in which case the registration of the nursing pool shall be voided and the new owner or operator shall apply for a new registration.

NEW SECTION. Sec. 4. (1) The nursing pool shall document that each temporary employee or referred independent contractor provided or referred to health care facilities currently meets the minimum state credentialing requirements.

(2) The nursing pool shall not require, as a condition of employment or referral, that employees or independent contractors of the nursing pool recruit new employees or independent contractors for the nursing pool from among the permanent employees of the health care facility to which the nursing pool employee or independent contractor has been assigned or referred.

(3) The nursing pool shall carry professional and general liability insurance to insure against any loss or damage occurring, whether professional or otherwise, as the result of the negligence of its employees, agents or independent contractors for acts committed in the course of their employment with the nursing pool: PROVIDED, That a nursing pool that only refers self-employed, independent contractors to health care facilities shall carry professional and general liability insurance to cover its own liability as a nursing pool which refers self-employed, independent contractors to health care facilities: AND PROVIDED FURTHER, That it shall require, as a condition of referral, that self-employed, independent contractors carry professional and general liability insurance to insure against loss or damage resulting from their own acts committed in the course of their own employment by a health care facility.

(4) The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of registration and the discipline of persons registered under this chapter. The director shall be the disciplinary authority under this chapter.

NEW SECTION. Sec. 5. No state agency shall allow reimbursement for the use of temporary health care personnel from nursing pools that are not registered pursuant to this chapter: PROVIDED, That individuals directly retained by a health care facility without intermediaries may be reimbursed.

NEW SECTION. Sec. 6. The director shall report to the legislature by July 1, 1989, with an assessment of the effectiveness of the provisions of this act. The report may include minimum standards for nursing pools and shall include proposed provisions for improvement of this act.

Sec. 7. Section 1, chapter 150, Laws of 1987, section 15, chapter 412, Laws of 1987, section 17, chapter 415, Laws of 1987, section 18, chapter 447, Laws of 1987, section 22, chapter 512, Laws of 1987 and RCW 18-.130.040 are each reenacted and 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) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists certified under chapter 18.06 RCW;

(viii) Radiologic technologists certified under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW; ((~~and~~))

(x) Persons registered or certified under chapter 18.19 RCW; and

(xi) Persons registered as nursing pool operators.

(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) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(viii) 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) 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) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The board of practical nursing as established in chapter 18.78 RCW;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The board of nursing as established in chapter 18.88 RCW; and

(xv) 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.

NEW SECTION. Sec. 8. Sections 1 through 5 of this act shall constitute a new chapter in Title 18 RCW.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 244

[Substitute House Bill No. 1525]
DEBENTURE COMPANIES

AN ACT Relating to debenture companies; amending RCW 21.20.700, 21.20.705, 21.20.710, 21.20.725, 21.20.732, 21.20.734, and 21.20.340; adding new sections to chapter 21.20 RCW; creating a new section; and providing an effective date.

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

Sec. 1. Section 5, chapter 171, Laws of 1973 1st ex. sess. and RCW 21.20.700 are each amended to read as follows:

(1) In addition to the authority conferred in RCW 21.20.370 the director at any time during a public offering whether registered or not, or one year thereafter or at any time that any debt or equity securities which have been sold to the public pursuant to registration under this chapter ((~~21.20 RCW~~)) are still an outstanding obligation of the issuer: ((~~(1)~~)) (a) May investigate ((~~and examine~~)) the issuer for the purpose of ascertaining whether there have been violations of this chapter ((~~21.20 RCW, regulations thereunder~~)), rules adopted under this chapter, or any conditions imposed by the director expressed in ((~~the~~)) any permit for ((~~the~~)) a public offering or otherwise; ((~~(2)~~)) (b) may visit and examine the issuer for the purpose of assuring compliance with this chapter, rules adopted under this chapter, or any conditions imposed by the director whether expressed in the permit for the public offering or otherwise; (c) may require or permit any person to file a statement in writing, under oath or otherwise as the director may determine, as to all the facts and circumstances concerning the matter to be investigated; and ((~~(3)~~)) (d) may publish information concerning any violation of this chapter, or any rule ((~~or~~)), order ((~~hereunder~~)), or condition adopted or imposed under this chapter.

((~~Said~~)) (2) The examination ((~~and~~)) or investigation, whether conducted within or without this state, shall include the right to reasonably examine the issuer's books, accounts, records, files, papers, feasibility reports, other pertinent information and obtain written permission from the issuer to consult with the independent accountant who audited the financial statements of the issuer. The reasonable costs of ((~~such~~)) the examination shall be paid by the issuer to the director((~~: PROVIDED, HOWEVER,~~)). The issuer shall not be liable for the costs of second or subsequent examinations during a calendar year.

Sec. 2. Section 6, chapter 171, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 421, Laws of 1987 and RCW 21.20.705 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Debenture company" means an issuer of any note, debenture, or other debt obligation for money used or to be used as capital or operating

funds of the issuer, which is offered or sold in this state, and which issuer is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in: (a) Notes, or other debt obligations, whether or not secured by real or personal property; (b) vendors' interests in real estate contracts; (c) real or personal property to be leased to third parties; or (d) real or personal property. The term "debenture company" does not include an issuer by reason of any of its securities which are exempt from registration under RCW 21.20.310 or offered or sold in transactions exempt from registration under RCW 21.20.320 (1) or (8); and

(2) "Acquiring party" means ((~~the~~)) any person ((~~acquiring control of a debenture company through the purchase of stock~~)) becoming or attempting to become a controlling person under RCW 21.20.717.

Sec. 3. Section 7, chapter 171, Laws of 1973 1st ex. sess. and RCW 21.20.710 are each amended to read as follows:

((~~No~~)) (1) Except as provided in subsection (2) of this section, a debenture company shall not offer for sale any security other than capital stock ((~~which~~)) if such sale would result in the violation of the following ((~~paid-in~~)) capital requirements:

(((~~(1)~~))) (a) For outstanding securities other than capital stock totaling from $1 to ((~~$500,000 there must be at least $50,000 paid-in capital, said paid-in capital must be in the form of cash or comparable liquid assets as defined by rules and regulations; and~~

~~(2) For outstanding securities other than capital stock totaling $500,001 to $750,000 there must be at least $75,000 paid-in capital, said paid-in capital must be in the form of cash or comparable liquid assets as defined by rules and regulations; and~~

~~(3) For outstanding securities other than capital stock totaling $750,001 to $1,000,000 there must be at least $100,000 paid-in capital, said paid-in capital must be in the form of cash or comparable liquid assets as defined by rules and regulations~~)) $1,000,000, a debenture company shall have a net worth of at least $200,000.

(b) In addition to the requirement((~~s~~)) set forth in ((~~subsections (1), (2), and (3) of this section, to the extent that~~)) (a) of this subsection:

(i) A debenture company ((~~has~~)) with outstanding securities other than capital stock totaling in excess of $1,000,000((~~, the debenture company's paid-in capital, equity reserves, and undivided profits~~)) but not over $100,000,000 shall ((~~be~~)) have additional net worth equal to at least ((~~five~~)) ten percent of the outstanding securities in excess of $1,000,000((~~, but not over $10,000,000, and two and one-half percent additional paid-in capital, equity reserves, and undivided profits for all securities in excess of $10,000,000: PROVIDED, That~~)) but not over $100,000,000; and

(ii) A debenture company with outstanding securities other than capital stock totalling in excess of $100,000,000 shall have additional net worth

equal to at least five percent of the outstanding securities in excess of $100,000,000.

(c) Every debenture company shall hold at least one-half the amount of its required net worth in cash or comparable liquid assets as defined by rule, or shall demonstrate comparable liquidity to the satisfaction of the director.

(2) The director may for good cause in the interest of the existing investors, waive ((~~this requirement: PROVIDED FURTHER, That~~)) the requirements of subsection (1) of this section. If the director waives the minimum requirements set forth in subsection (1) of this section, ((~~any debenture company taking advantage of this waiver shall set aside into its equity reserves and undivided profits, at least five percent of the net earnings of each year;~~)) the debenture company shall increase its new [net] worth or liquidity in accordance with conditions imposed by the director until such time as ((~~they~~)) the debenture company can meet the requirements of this section without waiver from the director.

Sec. 4. Section 10, chapter 171, Laws of 1973 1st ex. sess. and RCW 21.20.725 are each amended to read as follows:

(1) A debenture company shall not issue any debenture payable on demand nor pay or accrue interest beyond the maturity date of any debenture.

(2) Debenture companies shall not issue certificates of debentures in passbook form, or in ((~~such~~)) any other form which suggests to the holder ((~~thereof~~)) that such moneys may be withdrawn on demand.

(((~~(2)~~))) (3) Each certificate of debenture or an application for a certificate shall specify on the face of the certificate or application therefor, in twelve point bold face type or larger, that such debenture is not insured by the United States government, the state of Washington, or any agency thereof.

Sec. 5. Section 7, chapter 421, Laws of 1987 and RCW 21.20.732 are each amended to read as follows:

(1) The director may issue and serve upon a debenture company a notice of charges if in the opinion of the director any debenture company:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the debenture company;

(b) Is violating or has violated ((~~the law~~)) section 8, 9, or 11 of this 1988 act, ((~~a~~)) or any rule ((~~or~~)), order, or ((~~any~~)) condition ((~~imposed in writing by the director in connection with the granting of any application or other request by the debenture company or any written agreement made with the director~~)) adopted or imposed thereunder; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or act or acts or the practice or practices and shall fix a time and place at which a hearing will be held to determine

whether an order to cease and desist should issue against the debenture company. The hearing shall be set in accordance with chapter 34.04 RCW.

Unless the debenture company appears at the hearing by a duly authorized representative, it shall be considered to have consented to the issuance of the cease and desist order. If ((~~this consent~~)) the debenture company is deemed to have consented or if upon the record made at the hearing the director finds that any violation, act, or practice specified in the notice of charges has been established, the director may issue and serve upon the debenture company an order to cease and desist from the violation, act, or practice. The order may require the debenture company and its directors, officers, controlling persons, employees, and agents to cease and desist from the violation, act, or practice and may require the debenture company to take affirmative action to correct the conditions resulting from the violation, act, or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the debenture company concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

Sec. 6. Section 8, chapter 421, Laws of 1987 and RCW 21.20.734 are each amended to read as follows:

Whenever the director determines that ((~~the acts~~)) any violation, act, or practice specified in RCW 21.20.732 or ((~~their~~)) its continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the debenture company or to otherwise seriously prejudice the interests of its security holders, the director may also issue a temporary order requiring the debenture company and its directors, officers, controlling persons, employees, and agents to cease and desist from the violation, act, or practice. The order shall become effective upon service on the debenture company and shall remain effective ((~~unless set aside, limited, or suspended by a court in proceedings under RCW 21.20.732~~)) pending the completion of the administrative proceedings under the notice and until such time as the director dismisses the charges specified in the notice or until the effective date of a cease and desist order issued against the debenture company under RCW 21.20.732.

NEW SECTION. Sec. 7. Nothing in RCW 21.20.700 through 21.20-.750 and sections 8 through 16 of this act limits the application of other provisions of this chapter.

NEW SECTION. Sec. 8. (1) A debenture company shall not, without prior written consent of the director:

(a) Make equity investments in a single project or subsidiary of more than ten percent of its assets or of more than its net worth, whichever is greater; or

(b) Make equity investments, including investments in subsidiaries, other than investments in income-producing real property, which in the aggregate exceed twenty percent of its assets.

(2) For the purposes of this section, an equity investment does not include any acquisition of real property in satisfaction, or on account, of debts previously contracted in the regular course of the debenture company's business, or in satisfaction of judgments, vendors' interests in real property contracts, or liens if the real property has not been held by the debenture company for more than three years from the date it was acquired and any additional time permitted by the director.

NEW SECTION. Sec. 9. (1) Except as provided in subsection (3) of this section, a debenture company shall not loan or invest in a loan or loans to any one borrower more than two and one-half percent of the debenture company's assets without prior written consent of the director.

(2) For the purpose of this section, loans made to affiliates of the borrower are deemed to have been made to the borrower.

(3)(a) If good cause is shown, the director may waive in whole or in part the limitation in subsection (1) of this section.

(b) A loan or obligation shall not be subject to the limitation in subsection (1) of this section to the extent that the loan is secured or covered by guarantee, or by commitment or agreement to take over or to purchase the loan, made by any federal reserve bank or by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

NEW SECTION. Sec. 10. (1) Any debt due a debenture company on which interest is one year or more past due and unpaid shall be considered a bad debt and shall be charged off the books of the debenture company unless:

(a) Such debt is well-secured and in the course of collection by legal process or probate proceedings; or

(b) Such debt is represented or secured by bonds having a determinable market value currently quoted on a national securities exchange, provided that in such case, such bonds shall be carried on the books of the debenture company at such value as the director may from time to time direct, but in no event may such carrying value exceed the market value thereof.

(2) A final judgment held by a debenture company shall not be considered an asset of the debenture company after two years from the date of its entry excluding any time for appeal unless extended by the director in writing for a specified period.

NEW SECTION. Sec. 11. (1) A debenture company shall not invest more than twenty percent of its assets in unsecured loans.

(2)(a) Except as provided in (b) of this subsection, a loan shall be deemed unsecured if the ascertained market value of the collateral securing the loan does not exceed one hundred twenty-five percent of the loan and all senior indebtedness.

(b) A loan shall not be deemed unsecured to the extent that the loan is guaranteed or insured by the federal housing administration, the administrator of veterans' affairs, the farmers home administration, or an insurer authorized to do business in this state, or any other guarantor or insurer approved by the director.

NEW SECTION. Sec. 12. Every debenture company shall notify each of its debenture holders of the maturity date of the holder's debenture by sending a notice to the holder not more than forty-five days nor less than fifteen days prior to the maturity date of the debenture at the holder's last known address.

NEW SECTION. Sec. 13. A debenture company shall send annually and in a timely manner either a copy of its annual financial statements or a summary of its financial statements for the most recent fiscal year to each debenture holder at the debenture holder's last known address. If a summary is sent, the debenture company shall make available to any debenture holder upon request a copy of its complete annual financial statements for its most recent fiscal year.

NEW SECTION. Sec. 14. The director may adopt rules to govern examinations and reports of debenture companies and to otherwise govern the administration of debenture companies under this chapter.

NEW SECTION. Sec. 15. Every debenture company shall make and keep such accounts and other records as shall be prescribed by the director. All records so required shall be preserved for three years unless the director prescribes otherwise for particular types of records. All the records of a debenture company are subject at any time or from time to time to such reasonable periodic, special, or other examinations by representatives of the director, within or without this state, as the director deems necessary or appropriate in the public interest or for protection of investors.

NEW SECTION. Sec. 16. (1) Examination reports and information obtained by the director or the director's representatives in conducting examinations pursuant to RCW 21.20.700 shall not be subject to public disclosure under chapter 42.17 RCW.

(2) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, 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 director.

Sec. 17. Section 24, chapter 68, Laws of 1979 ex. sess. as last amended by section 2, chapter 90, Laws of 1986 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~~)) forty dollars for original registration with each employer and ((~~fifteen~~)) twenty 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), (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. 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. Sections 7 through 16 of this act are added to chapter 21.20 RCW and shall be codified within the subchapter "ADDITIONAL PROVISIONS".

NEW SECTION. Sec. 20. Sections 1 through 16 of this act shall take effect July 1, 1988.

NEW SECTION. Sec. 21. The director of licensing may take whatever action is necessary to implement this act on its effective date. This act applies to any person, individual, corporation, partnership, or association whether or not in existence on or prior to July 1, 1988. The director of licensing may adopt transition rules in order to allow debenture companies in existence prior to July 1, 1988, a reasonable amount of time to comply with the requirements of this act. Transition rules shall require compliance with this act not later than January 1, 1990.

Passed the House February 13, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 245

[Senate Bill No. 6271]

HOME HEALTH, HOSPICE, AND HOME CARE SERVICES

AN ACT Relating to care provided in the home; amending RCW 70.126.010, 48.21.220, 48.21A.090, and 48.44.320; adding a new chapter to Title 70 RCW; adding a new section to chapter 70.126 RCW; creating a new section; repealing RCW 70.126.040 and 70.126.050; prescribing penalties; making an appropriation; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that the availability of home health, hospice, and home care services has improved the quality of life for Washington's citizens. However, the delivery of these services bring risks because the in-home location of services makes their actual delivery virtually invisible. Also, the complexity of products, services, and delivery systems in today's health care delivery system challenges even informed and healthy individuals. The fact that these services are delivered to the state's most vulnerable population, the ill or disabled who are frequently also elderly, adds to these risks.

It is the intent of the legislature to protect the citizens of Washington state by licensing home health, hospice, and home care agencies. This legislation is not intended to unreasonably restrict entry into the in-home service marketplace. Standards established are intended to be the minimum necessary to ensure safe and competent care, and should be demonstrably related to patient safety and welfare.

PART I
GENERAL PROVISIONS

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

(1) "Branch office" means a location or site from which a home health, hospice, or home care agency provides services within a portion of the total

geographic area served by the parent agency. The branch office is part of the agency and is located sufficiently close to share administration, supervision, and services.

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

(3) "Home care agency" means a private or public agency or organization that administers or provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence.

(4) "Home care services" means personal care services, homemaker services, respite care services, or any other nonmedical services provided to ill, disabled, or infirm persons which services enable these persons to remain in their own residences consistent with their desires, abilities, and safety.

(5) "Home health agency" means a private or public agency or organization that administers or provides home health aide services or two or more home health services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence.

(6) "Home health services" means health or medical services provided to ill, disabled, or infirm persons. These services may be of an acute or maintenance care nature, and include but are not limited to nursing services, home health aide services, physical therapy services, occupational therapy services, speech therapy services, respiratory therapy services, nutritional services, medical social services, and medical supplies or equipment services.

(7) "Home health aide services" means services provided by a home health agency or a hospice under the supervision of a registered nurse, physical therapist, occupational therapist, or speech therapist. Such care includes ambulation and exercise, assistance with self-administered medications, reporting changes in patients' conditions and needs, completing appropriate records, and personal care or homemaker services needed to achieve medically desired results.

(8) "Homemaker services" means services that assist ill, disabled, or infirm persons with household tasks essential to achieving adequate household and family management.

(9) "Hospice agency" means a private or public agency or organization administering or providing hospice care directly or through a contract arrangement to terminally ill persons in places of temporary or permanent residence by using an interdisciplinary team composed of at least nursing, social work, physician, and pastoral or spiritual counseling.

(10) "Hospice care" means: (a) Palliative care provided to a terminally ill person in a place of temporary or permanent residence that alleviates physical symptoms, including pain, as well as alleviates the emotional and spiritual discomfort associated with dying; and (b) bereavement care provided to the family of a terminally ill person that alleviates the emotional and spiritual discomfort associated with the death of a family member.

Hospice care may include health and medical services and personal care, respite, or homemaker services. Family means individuals who are important to and designated by the patient, and who need not be relatives.

(11) "Ill, disabled, or infirm persons" means persons who need home health, hospice, or home care services in order to maintain themselves in their places of temporary or permanent residence.

(12) "Personal care services" means services that assist ill, disabled, or infirm persons with dressing, feeding, and personal hygiene to facilitate self-care.

(13) "Respite care services" means services that assist or support the primary care giver on a scheduled basis.

NEW SECTION. Sec. 3. (1) After July 1, 1990, no private or public agency or organization may advertise, operate, manage, conduct, open, or maintain a home health agency without first obtaining a home health agency license from the department.

(2) After July 1, 1990, no private or public agency or organization may advertise, operate, manage, conduct, open, or maintain a hospice agency without first obtaining a hospice agency license from the department.

(3) After July 1, 1990, no public or private agency or organization may advertise, operate, manage, conduct, open, or maintain a home care agency without first obtaining a home care agency license from the department.

NEW SECTION. Sec. 4. (1) No person may use the words "home health agency," "home health care services," or "visiting nurse services" in its corporate or business name, or advertise using such words unless licensed as a home health agency under this chapter.

(2) No person may use the words "hospice agency" or "hospice care" in its corporate or business name, or advertise using such words unless licensed as a hospice agency under this chapter.

(3) No person may use the words "home care agency" or "home care services" in its corporate or business name, or advertise using such words unless licensed as a home care agency under this chapter.

NEW SECTION. Sec. 5. The following are not subject to regulation for the purposes of this chapter:

(1) A family member;

(2) An organization that provides only meal services in a person's residence;

(3) Entities furnishing durable medical equipment that does not involve the delivery of professional services beyond those necessary to set up and monitor the proper functioning of the equipment and educate the user on its proper use;

(4) A person who provides services through a contract with a licensed agency;

(5) An employee or volunteer of a licensed agency who provides services only as an employee or volunteer;

(6) Facilities and institutions, including but not limited to nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41 RCW, boarding homes under chapter 18.20 RCW, developmental disability residential programs under chapter 71.12 RCW, or other facilities and institutions, only when providing services to persons residing within the facility or institution if the delivery of the services is regulated by the state;

(7) Persons providing care to disabled persons through a contract with the department;

(8) Nursing homes, hospitals, or other institutions, agencies, organizations, or persons that contract with licensed home health, hospice, or home care agencies for the delivery of services;

(9) In-home assessments of an ill, disabled, or infirm person's ability to adapt to the home environment that does not result in regular ongoing care at home;

(10) Services conducted by and for the adherents of a church or religious denomination that rely upon spiritual means alone through prayer for healing in accordance with the tenets and practices of such church or religious denomination and the bona fide religious beliefs genuinely held by such adherents;

(11) A medicare-approved dialysis center operating a medicare-approved home dialysis program;

(12) Case management services which do not include the direct delivery of home health, hospice, or home care services.

NEW SECTION. Sec. 6. Notwithstanding sections 3(2) and 4(2) of this act, a volunteer organization that provides hospice care without receiving compensation for delivery of services that does not meet the licensure requirements of this chapter for a hospice agency may use the phrase "volunteer hospice" if the volunteer organization was formed prior to January 1, 1988, and the organization notifies the department prior to July 1, 1989. This section shall not be considered an exemption from the home health agency or home care agency license provisions of this chapter.

NEW SECTION. Sec. 7. Except as exempt under section 5 (6) and (8) of this act, a nursing home licensed under chapter 18.51 RCW is not exempt from the requirements of this chapter when the nursing home is functioning as a home health, hospice, or home care agency.

NEW SECTION. Sec. 8. Except as exempt under section 5 (6) and (8) of this act, a hospital licensed under chapter 70.41 RCW is not exempt from the requirements of this chapter when the hospital is functioning as a home health, hospice, or home care agency.

NEW SECTION. Sec. 9. (1) An applicant for a home health, hospice, or home care agency license shall:

(a) File a written application on a form provided by the department;

(b) Demonstrate ability to comply with this chapter and the rules adopted under this chapter;

(c) Cooperate with on-site review conducted by the department prior to licensure or renewal;

(d) Provide evidence of and maintain professional liability insurance in the amount of one hundred thousand dollars per occurrence or adequate self-insurance as approved by the department. This subsection shall not apply to hospice agency applicants that provide hospice care without receiving compensation for delivery of services;

(e) Provide evidence of and maintain public liability and property damage insurance coverage in the sum of fifty thousand dollars for injury or damage to property per occurrence and fifty thousand dollars for injury or damage, including death, to any one person and one hundred thousand dollars for injury or damage, including death, to more than one person, or evidence of adequate self-insurance for public liability and property damage as approved by the department. This subsection shall not apply to hospice agency applicants that provide hospice care without receiving compensation for delivery of services;

(f) Provide such proof as the department may require concerning organizational and governance structure, and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(g) File with the department a list of the counties in which the applicant will operate;

(h) File with the department a list of the services offered;

(i) Pay to the department a license fee as provided in section 10 of this act; and

(j) Provide any other information that the department may reasonably require.

(2) A certificate of need under chapter 70.38 RCW is not required for licensure.

(3) A license or renewal shall not be granted pursuant to this chapter if the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets, within the last five years have been found in a civil or criminal proceeding to have committed any act which reasonably relates to the person's fitness to establish, maintain, or administer an agency or to provide care in the home of another.

(4) A separate license is not required for a branch office.

NEW SECTION. Sec. 10. An application for a license or any renewal shall be accompanied by a fee as established by the department under RCW 43.20B.110. A surcharge no greater than fifty dollars per year may be assessed for the period of time necessary to repay the cost of implementing this chapter.

NEW SECTION. Sec. 11. Upon receipt of an application under section 9 of this act for a license and the license fee, the department shall issue a license if the applicant meets the requirements established under this chapter. All persons operating as home health, hospice, or home care agencies before July 1, 1989, shall submit their applications and application fees by July 1, 1989. In addition, issuance of a license is conditioned on the department conducting an on-site review. A license issued under this chapter shall not be transferred or assigned without thirty days prior notice to the department and the department's approval. A license, unless suspended or revoked, may be effective for a period of up to two years, at the discretion of the department. The department may establish penalty fees for failure to apply for licensure or renewal as required by this chapter.

NEW SECTION. Sec. 12. The department shall adopt rules providing for the combination of applications and licenses, and the reduction of individual license fees if an applicant applies for more than one category of license under this chapter. The department shall provide for combined licensure inspections and audits for licensees holding more than one license under this chapter.

NEW SECTION. Sec. 13. The department shall adopt rules consistent with section 1 of this act necessary to implement this chapter under chapter 34.04 RCW. In order to ensure safe and adequate care, the rules shall address at a minimum the following:

(1) Maintenance and preservation of all records relating directly to the care and treatment of persons by licensees;

(2) Establishment of a procedure for the receipt, investigation, and disposition of complaints by the department regarding services provided by licensees;

(3) Establishment and implementation of a plan for on-going care of persons and preservation of records if the licensee ceases operations;

(4) Supervision of services;

(5) Maintenance of written policies regarding response to referrals and access to services at all times;

(6) Maintenance of written personnel policies and procedures and personnel records that provide for prehire screening, minimum qualifications, regular performance evaluations, including observation in the home, participation in orientation and in-service training, and involvement in quality assurance activities. The department may not establish qualifications for licensed professionals other than those required for licensure; and

(7) Maintenance of written policies on obtaining regular reports on patient satisfaction.

NEW SECTION. Sec. 14. Licensees shall conform to the standards of RCW 69.41.030 and 69.50.308.

NEW SECTION. Sec. 15. (1) A licensee shall provide each person or designated representative with a written bill of rights affirming each person's right to:

(a) A listing of the services offered by the agency and those being provided;

(b) The name of the person supervising the care and the manner in which that person may be contacted;

(c) A description of the process for submitting and addressing complaints;

(d) A statement advising the person or representative of the right to participate in the development of the plan of care;

(e) A statement providing that the person or representative is entitled to information regarding access to the department's registry of providers and to select any licensee to provide care, subject to the patient's reimbursement mechanism or other relevant contractual obligations;

(f) Be treated with courtesy, respect, privacy, and freedom from abuse and discrimination;

(g) Refuse treatment or services;

(h) Have patient records be confidential; and

(i) Have properly trained staff and coordination of services.

(2) Upon request, a licensee shall provide each person or designated representative with a fully itemized billing statement at least monthly, including the date of each service and the charge. Licensees providing services through a managed care plan shall not be required to provide itemized billing statements.

NEW SECTION. Sec. 16. No licensee or employee may hold a durable power of attorney on behalf of any person who is receiving care from the licensee.

NEW SECTION. Sec. 17. In order to assist in the administration of this chapter, the department may adopt rules under chapter 34.04 RCW to provide that a home health or hospice agency certified pursuant to chapter 70.126 RCW immediately before the effective date of this section continues to operate under that certification through the expiration date of the certificate without obtaining a license under this chapter.

NEW SECTION. Sec. 18. Pursuant to chapter 34.04 RCW, the department may deny, suspend, or revoke a license under this chapter or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation in any case in which it finds that the licensee, or any applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or licensee's assets:

(1) Failed or refused to comply with the requirements of this chapter or the standards or rules adopted under this chapter;

(2) Was the holder of a license issued pursuant to this chapter that was revoked for cause and never reissued by the department, or that was suspended for cause and the terms of the suspension have not been fulfilled and the licensee has continued to operate;

(3) Has knowingly or with reason to know made a false statement of a material fact in the application for the license or any data attached thereto or in any record required by this chapter or matter under investigation by the department;

(4) Refused to allow representatives of the department to inspect any book, record, or file required by this chapter to be maintained or any portion of the licensee's premises;

(5) Wilfully prevented, interfered with, or attempted to impede in any way the work of any representative of the department and the lawful enforcement of any provision of this chapter;

(6) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of this chapter or the rules adopted under this chapter;

(7) Failed to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after the assessment becomes final;

(8) Used advertising that is false, fraudulent, or misleading;

(9) Has repeated incidents of personnel performing services beyond their authorized scope of practice; or

(10) Misrepresented or was fraudulent in any aspect of the conduct of the licensee's business.

NEW SECTION. Sec. 19. The department may at any time conduct an on-site review of a licensee or conduct in-home visits in order to determine compliance with this chapter. The department may also examine and audit records necessary to determine compliance with this chapter. The right to conduct an on-site review and audit and examination of records shall extend to any premises and records of persons whom the department has reason to believe are providing home health, hospice, or home care without a license.

Following an on-site review, in-home visit, or audit, the department shall give written notice of any violation of this chapter or the rules adopted under this chapter. The notice shall describe the reasons for noncompliance and inform the licensee that it must comply within a specified reasonable time, not to exceed sixty days. If the licensee fails to comply, the licensee is subject to disciplinary action under section 18 of this act.

NEW SECTION. Sec. 20. All information received by the department through filed reports, audits, on-site reviews, in-home visits, or as otherwise authorized under this chapter shall not be disclosed publicly in any manner that would identity persons receiving care under this chapter.

NEW SECTION. Sec. 21. Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the advertising, operating, maintaining, managing, or opening of a home health, hospice, or home care agency without a license under this chapter.

NEW SECTION. Sec. 22. Any person violating section 3 of this act is guilty of a misdemeanor. Each day of a continuing violation is a separate violation.

NEW SECTION. Sec. 23. The department shall compile a registry of all licensed home health, hospice, and home care agencies, both alphabetically and by county. Copies of the registry shall be made available to members of the general public at a nominal printing charge.

PART II
HOME HEALTH CARE

NEW SECTION. Sec. 24. In addition to the exemptions in section 5 of this act, a hospice agency delivering home health care integrally related to the delivery of hospice care or a health care practitioner who provides a single home health service that is not a part of a coordinated delivery of more than one service is not a home health agency for the purposes of this chapter.

NEW SECTION. Sec. 25. (1) In addition to the rules consistent with section 1 of this act adopted under section 13 of this act, the department shall adopt rules for home health agencies which address the following:

(a) Establishment of case management guidelines for acute and maintenance care patients;

(b) Establishment of guidelines for periodic review of the home health care plan of care and plan of treatment by appropriate health care professionals; and

(c) Maintenance of written policies regarding the delivery and supervision of patient care and clinical consultation as necessary by appropriate health care professionals.

(2) As used in this section:

(a) "Acute care" means care provided by a home health agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status.

(b) "Maintenance care" means care provided by home health agencies that is necessary to support an existing level of health and to preserve a patient from further failure or decline.

(c) "Home health plan of care" means a written plan of care established by a home health agency by appropriate health care professionals

that describes maintenance care to be provided. A patient or his or her representative shall be allowed to participate in the development of the plan of care to the extend practicable.

(d) "Home health plan of treatment" means a written plan of care established by a physician licensed under chapter 18.57 or 18.71 RCW, a podiatrist licensed under chapter 18.22 RCW, or an advanced registered nurse practitioner as authorized by the board of nursing under chapter 18.88 RCW, in consultation with appropriate health care professionals within the agency that describes medically necessary acute care to be provided for treatment of illness or injury.

PART III
HOSPICES

NEW SECTION. Sec. 26. (1) In addition to the rules consistent with section 1 of this act adopted under section 13 of this act, the department shall adopt rules for hospice agencies which address the following:

(a) Establishment of guidelines for periodic review of the hospice plan of care;

(b) Written policies requiring availability of twenty-four hour seven days a week hospice registered nurse consultation and in-home services as appropriate;

(c) Quality assurance activities to include the involvement of interdisciplinary professionals;

(d) Maintenance of written policies regarding interdisciplinary team communication as appropriate and necessary; and

(e) Written policies regarding the use and availability of volunteers to provide family support and respite when requested.

(2) As used in this section "hospice plan of care" means a written plan of care established by a physician and reviewed by other members of the interdisciplinary team describing hospice care to be provided.

PART IV
HOME CARE

NEW SECTION. Sec. 27. In addition to the exemptions in section 5 of this act, a home health or hospice agency delivering home care as an integral part of the delivery of home health or hospice care, an individual providing home care through a direct agreement with the recipient of care, an individual providing home care through a direct agreement with a third party payor where comparable services are not readily available through a home care agency, or a volunteer organization that provides home care without compensation, is not a home care agency for the purposes of this chapter.

NEW SECTION. Sec. 28. In addition to the rules adopted under section 13 of this act, the department shall adopt rules consistent with section 1

of this act for home care agencies which address delivery of services according to a home care plan of care.

As used in this section, "home care plan of care" means a written plan of care that is established and periodically reviewed by a home care agency that describes the home care to be provided.

PART V
INSURANCE

Sec. 29. Section 5, chapter 249, Laws of 1983 as amended by section 4, chapter 22, Laws of 1984 and RCW 70.126.010 are each amended to read as follows:

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

(1) "Hospice" means a private or public agency or organization that administers and provides hospice care and is ((~~certified~~)) licensed by the department of social and health services as a hospice care agency.

(2) "Hospice care" means care prescribed and supervised by the attending physician and provided by the hospice to the terminally ill in accordance with the standards of RCW 70.126.030.

(3) "Home health agency" means a private or public agency or organization that administers and provides home health care and is ((~~certified~~)) licensed by the department of social and health services as a home health care agency.

(4) "Home health care" means services, supplies, and medical equipment that meet the standards of RCW 70.126.020, prescribed and supervised by the attending physician, and provided through a home health agency and rendered to members in their residences when hospitalization would otherwise be required.

(5) "Home health aide" means a person employed by a home health agency or a hospice who is providing part-time or intermittent care under the supervision of a registered nurse, a physical therapist, occupational therapist, or speech therapist. Such care includes ambulation and exercise, assistance with ((~~medications ordinarily~~)) self-administered medications, reporting changes in patients' conditions and needs, completing appropriate records, and personal care or household services that are needed to achieve the medically desired results.

(6) "Home health care plan of treatment" means a written plan of care established and periodically reviewed by a physician that describes medically necessary home health care to be provided to a patient for treatment of illness or injury.

(7) "Hospice plan of care" means a written plan of care established and periodically reviewed by a physician that describes hospice care to be provided to a terminally ill patient for palliation or medically necessary treatment of an illness or injury.

(8) "Physician" means a physician licensed under chapter 18.57 or 18-.71 RCW.

NEW SECTION. Sec. 30. A new section is added to chapter 70.126 RCW to read as follows:

The provisions of this chapter apply only for the purposes of determining benefits to be included in the offering of optional coverage for home health and hospice care services, as provided in RCW 48.21.220, 48.21A-.090, and 48.44.320 and do not apply for the purposes of licensure.

Sec. 31. Section 1, chapter 249, Laws of 1983 as amended by section 1, chapter 22, Laws of 1984 and RCW 48.21.220 are each amended to read as follows:

(1) Every insurer entering into or renewing group or blanket disability insurance policies governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapter 70.126 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and ((~~may~~)) restrict benefits to, services rendered by home health and ((~~hospices certified~~)) hospice agencies licensed by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 32. Section 2, chapter 249, Laws of 1983 as amended by section 2, chapter 22, Laws of 1984 and RCW 48.21A.090 are each amended to read as follows:

(1) Every insurer entering into or renewing extended health insurance governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapter 70.126 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and ((~~may~~)) restrict benefits to, services rendered by home health and ((~~hospices certified~~)) hospice agencies licensed by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 33. Section 3, chapter 249, Laws of 1983 as amended by section 3, chapter 22, Laws of 1984 and RCW 48.44.320 are each amended to read as follows:

(1) Every health care service contractor entering into or renewing a group health care service contract governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapter 70.126 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and ((~~may~~)) restrict benefits to, services rendered by home health and ((~~hospices certified~~)) hospice agencies licensed by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

PART VI
MISCELLANEOUS

NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

(1) Section 8, chapter 249, Laws of 1983, section 7, chapter 22, Laws of 1984 and RCW 70.126.040; and

(2) Section 9, chapter 249, Laws of 1983 and RCW 70.126.050.

NEW SECTION. Sec. 35. Sections 1 through 28 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 36. The sum of thirty-eight thousand eight hundred seventy-five dollars, or so much thereof as may be necessary, is appropriated from the general fund for the biennium ending June 30, 1989, to the department of social and health services for the purpose of implementing this act on its effective date.

NEW SECTION. Sec. 37. This act shall take effect July 1, 1989. The department may, beginning on July 1, 1988, take such steps as are necessary to insure that this act is implemented on its effective date.

NEW SECTION. Sec. 38. Sections 2 through 28 of this act shall expire on July 1, 1993. The legislative budget committee shall conduct a program and fiscal review of the implementation of sections 2 through 28 of this act by December 31, 1992. The review shall contain recommendations regarding continuation, modification, or elimination of sections 2 through 28 of this act.

NEW SECTION. Sec. 39. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 7, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 246

[Senate Bill No. 6523]

NATUROPATHS—MECHANOTHERAPY

AN ACT Relating to naturopathic mechanotherapy; and amending RCW 18.36A.040.

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

Sec. 1. Section 3, chapter 447, Laws of 1987 and RCW 18.36A.040 are each amended to read as follows:

Naturopathic medicine or naturopathy is the practice by naturopaths of the art and science of the diagnosis, prevention, and treatment of disorders of the body by stimulation or support, or both, of the natural processes of the human body. A naturopaths is responsible and accountable to the consumer for the quality of naturopathic care rendered.

The practice of naturopathy includes manual manipulation (mechanotherapy) ((~~until June 30, 1988~~)), the prescription, administration, dispensing, and use, except for the treatment of malignancies or neoplastic disease, of nutrition and food science, physical modalities, homeopathy, certain medicines of mineral, animal, and botanical origin, hygiene and immunization, common diagnostic procedures, and suggestion; however, nothing in this chapter shall prohibit consultation and treatment of a patient in concert with a practitioner licensed under chapter 18.57 or 18.71 RCW. No person licensed under this chapter may employ the term "chiropractic" to describe any services provided by a naturopath under this chapter.

The state health coordinating council shall study and make recommendations on the qualifications of naturopaths in practicing manual manipulation (mechanotherapy), including the minimum educational standards comparable to the educational requirements of other health professions, and verification of qualifications by examination of applicants for naturopathic licensure. The report shall be presented to the legislature by January 1, 1989.

((~~The legislature shall review the practice of manual manipulation (mechanotherapy) by naturopaths before December 15, 1987, to determine whether the practice should be continued or modified.~~))

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 247

[Substitute Senate Bill No. 6470]

HEALTH CARE PROFESSIONALS—VOLUNTARY SUBSTANCE ABUSE MONITORING PROGRAM

AN ACT Relating to substance abuse by health care professionals; adding a new section to chapter 18.130 RCW; creating a new section; and making appropriations.

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

NEW SECTION. Sec. 1. Existing law does not provide for a program for rehabilitation of health professionals whose competency may be impaired due to the abuse of alcohol and other drugs.

It is the intent of the legislature that the disciplining authorities seek ways to identify and support the rehabilitation of health professionals whose practice or competency may be impaired due to the abuse of drugs or alcohol. The legislature intends that such health professionals be treated so that they can return to or continue to practice their profession in a way which safeguards the public. The legislature specifically intends that the disciplining authorities establish an alternative program to the traditional administrative proceedings against such health professionals.

NEW SECTION. Sec. 2. A new section is added to chapter 18.130 RCW to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or drug treatment shall be provided by approved treatment facilities under RCW 70.96A.020(2) or 69.54.030: PROVIDED, That nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or drug treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160.

(2) In addition to approving substance abuse monitoring programs that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority for substance abuse. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to immunity shall include:

(i) An approved monitoring treatment program;

(ii) The professional association operating the program;

(iii) Members, employees, or agents of the program or association;

(iv) Persons reporting a license holder as being impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The immunity provided in this section is in addition to any other immunity provided by law.

(8) In addition to health care professionals governed by this chapter, this section also applies to pharmacists under chapter 18.64 RCW and pharmacy assistants under chapter 18.64A RCW. For that purpose, the board of pharmacy shall be deemed to be the disciplining authority and the substance abuse monitoring program shall be in lieu of disciplinary action under RCW 18.64.160 or 18.64A.050. The board of pharmacy shall adjust license fees to offset the costs of this program.

NEW SECTION. Sec. 3. There is appropriated from the general fund to the board of pharmacy for the biennium ending June 30, 1989, the sum of five thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 4. There is appropriated from the health professions account to the department of licensing for the biennium ending June 30, 1989, the sum of thirty-nine thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 248

[Second Substitute House Bill No. 318]
INSURANCE—REVISIONS

AN ACT Relating to insurance; amending RCW 48.02.160, 48.04.010, 48.04.140, 48.07-.150, 48.05.390, 48.14.010, 48.14.040, 48.17.150, 48.17.230, 48.17.450, 48.17.480, 48.17.490, 48.17.540, 48.17.600, 48.22.060, 48.30.157, 48.30.260, and 48.44.160; adding a new section to chapter 48.07 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. Section .02.16, chapter 79, Laws of 1947 and RCW 48.02.160 are each amended to read as follows:

The commissioner shall:

(1) Obtain and publish for the use of courts and appraisers throughout the state, tables showing the average expectancy of life and values of annuities and of life and term estates.

(2) Disseminate information concerning the insurance laws of this state.

(3) Provide assistance to members of the public in obtaining information about insurance products and in resolving complaints involving insurers and other licensees.

Sec. 2. Section .04.01, chapter 79, Laws of 1947 as last amended by section 16, chapter 237, Laws of 1967 and RCW 48.04.010 are each amended to read as follows:

(1) The commissioner may hold a hearing for any purpose within the scope of this code as he may deem necessary. He shall hold a hearing

(a) if required by any provision of this code, or

(b) upon written demand for a hearing made by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under any provision of this code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.

(2) Any such demand for a hearing shall specify in what respects such person is so aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.

(3) Unless a person aggrieved by a written order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of a licensee under Title 48 RCW within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner's licensing records for the licensee, the right to such hearing shall conclusively be deemed to have been waived.

(4) The commissioner shall hold such hearing demanded within thirty days after his receipt of the demand, unless postponed by mutual consent.

Sec. 3. Section .04.14, chapter 79, Laws of 1947 and RCW 48.04.140 are each amended to read as follows:

(1) The taking of an appeal shall not stay any action taken or proposed to be taken by the commissioner under the order appealed from unless a stay is granted by the court at a hearing held as part of the proceedings on appeal.

(2) A stay shall not be granted by the court in any case where the granting of a stay would tend to injure the public interest. In granting a stay, the court may require of the person taking the appeal such security or other conditions as it deems proper.

~~((3) If the order appealed from is one suspending, revoking, or refusing to renew an agent's, broker's, solicitor's or adjuster's license, the appellant by filing a bond with the clerk of the court, subject to approval of the~~

~~court, in the sum of five hundred dollars, conditioned to pay all costs that may be awarded against him, may, if filed prior to the effective date of such order, supersede the order appealed from until the final determination of the appeal.~~))

Sec. 4. Section .07.15, chapter 79, Laws of 1947 and RCW 48.07.150 are each amended to read as follows:

(1) No domestic insurer shall knowingly solicit insurance business in any reciprocating state in which it is not then licensed as an authorized insurer.

(2) This section shall not prohibit advertising through publications and radio broadcasts originating outside such reciprocating state, if the insurer is licensed in a majority of the states in which such advertising is disseminated, and if such advertising is not specifically directed to residents of such reciprocating state.

(3) This section shall not prohibit insurance, covering persons or risks located in a reciprocating state, under contracts solicited and issued in states in which the insurer is then licensed. Nor shall it prohibit insurance effectuated by the insurer as an unauthorized insurer in accordance with the laws of the reciprocating state. Nor shall it prohibit renewal or continuance in force, with or without modification, of contracts otherwise lawful and which were not originally executed in violation of this section.

(4) A "reciprocating" state, as used herein, is one under the laws of which a similar prohibition is imposed upon and is enforced against insurers domiciled in that state.

(5) The commissioner shall suspend or revoke the certificate of authority of a domestic insurer found by him, after a hearing, to have violated this section.

NEW SECTION. Sec. 5. A new section is added to chapter 48.07 RCW to read as follows:

(1)(a) Any insurer duly organized under the laws of any other state and admitted to transact insurance business in this state may become a domestic insurer upon complying with all requirements of law for the organization of a domestic insurer in this state and by designating its principal place of business at a location in this state. Such domestic insurer is entitled to a certificate of authority to transact insurance in this state, subject to the conditions set forth in (b) of this subsection, and is subject to the authority and the jurisdiction of this state.

(b) Before being eligible to become a domestic insurer under this section, an admitted insurer shall advise the commissioner, in writing, thirty days in advance of the proposed date of its plan to become a domestic insurer. The commissioner must approve the plan in advance of the proposed date. The commissioner shall not approve any such plan unless, after a hearing, pursuant to such notice as the commissioner may require, the

commissioner finds that the plan is consistent with law, and that no reasonable objection to the plan exists. If the commissioner fails to approve the plan, the commissioner shall state his or her reasons for failure to approve the plan in an order issued at the hearing.

(2) After providing thirty days advance written notice of its plan to the commissioner and upon the written approval of the commissioner in advance of the proposed transfer date, any domestic insurer of this state may transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon transfer of domicile, the insurer ceases to be a domestic insurer of this state. If otherwise qualified under the laws of this state, the commissioner shall admit the insurer to do business in this state as a foreign insurer. The commissioner shall approve any proposed transfer of domicile unless the commissioner determines after a hearing, pursuant to such notice as the commissioner may require, that the transfer is not in the best interests of the public or the insurer's policyholders in this state. If the commissioner fails to approve a proposed transfer of domicile, the commissioner shall state his or her reasons for failure to approve the transfer in an order issued at the hearing.

(3) When a foreign insurer, admitted to transact business in this state, transfers its corporate domicile to this state or to any other state, the certificate of authority, appointment of statutory agent, and all approved licenses, policy forms, rates, filings, and other authorizations and approvals in existence at the time the foreign insurer transfers its corporate domicile shall continue in effect.

(4) Any insurer transferring its corporate domicile under this section shall file any amendments to articles of incorporation, bylaws, or other corporate documents that are required to be filed in this state before the insurer may receive approval of its proposed plan by the commissioner.

Sec. 6. Section 2, chapter 238, Laws of 1985 as amended by section 2, chapter 148, Laws of 1986 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 policies pertaining to:

(a) Medical malpractice 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~~)) filed annually with the commissioner, no later than the first day of May.

Sec. 7. Section .14.01, chapter 79, Laws of 1947 as last amended by section 1, chapter 111, Laws of 1981 and RCW 48.14.010 are each amended to read as follows:

(1) The commissioner shall collect in advance the following fees:

(A) FOR FILING CHARTER DOCUMENTS:	
(i) Original charter documents, bylaws or record of organization of insurers, or certified copies thereof, required to be filed	$250.00
(ii) Amended charter documents, or certified copy thereof, other than amendments of bylaws	$ 10.00

(iii) No additional charge or fee shall be required for filing any of such documents in the office of the secretary of state.

(B) CERTIFICATE OF AUTHORITY:
(i) Issuance ..... $ 25.00
(ii) Renewal ..... $ 25.00

(C) ANNUAL STATEMENT OF INSURER, FILING ..... $ 20.00

(D) ORGANIZATION OR FINANCING OF DOMESTIC INSURERS AND AFFILIATED CORPORATIONS:
(i) Application for solicitation permit, filing $100.00
(ii) Issuance of solicitation permit ..... $ 25.00

(E) AGENTS' LICENSES:
(i) Agent's qualification licenses each year ..... $ 25.00
(ii) Filing of appointment of each such agent, each year ..... $ 10.00
(iii) Limited license issued pursuant to RCW 48.17.190, each year ..... $ 10.00

(F) BROKERS' LICENSES:
(i) Broker's license, each year ..... $ 50.00
(ii) Surplus line broker, each year $100.00

(G) SOLICITORS' LICENSE, EACH YEAR $ 10.00

(H) ADJUSTERS' LICENSES:
(i) Independent adjuster, each year ..... $ 25.00
(ii) Public adjuster, each year ..... $ 25.00

(I) RESIDENT GENERAL AGENT'S LICENSE, EACH YEAR ..... $ 25.00

(J) EXAMINATION FOR LICENSE, EACH EXAMINATION:
((~~(i) Application processing fee for first examination for license ..... $ 5.00~~
~~(ii) Broker's license ..... $ 50.00~~
~~(iii)~~)) All ((~~other~~)) examinations, except examinations administered by an independent testing service, the fees for which are to be approved by the commissioner and collected directly by and retained by such independent testing service ..... $ 10.00

(K) MISCELLANEOUS SERVICES:

(i) Filing other documents ..... $ 5.00

(ii) Commissioner's certificate under seal ..... $ 5.00

(iii) Copy of documents filed in the commissioner's office, reasonable charge therefor as determined by the commissioner.

(2) All fees so collected shall be remitted by the commissioner to the state treasurer not later than the first business day following, and shall be placed to the credit of the general fund: PROVIDED, That fees for examinations administered by an independent testing service which are approved by the commissioner pursuant to subsection (1)(j)((~~(iii)~~)) of this section ((~~may~~)) shall be collected directly by such independent testing service and retained by it.

Sec. 8. Section .14.04, chapter 79, Laws of 1947 as amended by section 21, chapter 190, Laws of 1949 and RCW 48.14.040 are each amended to read as follows:

(1) If pursuant to the laws of any other state or country, any taxes, ((~~fines, penalties,~~)) licenses, fees, deposits, or other obligations or prohibitions, in the aggregate, or additional to or at a net rate in excess of any such taxes, ((~~fines, penalties,~~)) licenses, fees, deposits or other obligations or prohibitions imposed by the laws of this state upon like foreign or alien insurers and their agents and solicitors, are imposed on insurers of this state and their agents doing business in such other state or country, a like rate, obligation or prohibition may be imposed by the commissioner, as to any item or combination of items involved, upon all insurers of such other state or country and their agents doing business in this state, so long as such laws remain in force or are so applied.

(2) For the purposes of this section, an alien insurer((;)) may be deemed to be domiciled in the state wherein it has established its principal office or agency in the United States. If no such office or agency has been established, the domicile of the alien insurer shall be deemed to be the country under the laws of which it is formed.

Sec. 9. Section .17.15, chapter 79, Laws of 1947 as last amended by section 7, chapter 269, Laws of 1979 ex. sess. and RCW 48.17.150 are each amended to read as follows:

(1) To qualify for an agent's or broker's license an applicant must otherwise comply with this code therefor and must

(a) be eighteen years of age or over, if an individual;

(b) be a bona fide resident of and actually reside in this state, or if a corporation, be other than an insurer and maintain a lawfully established place of business in this state, except as provided in RCW 48.17.330;

(c) be empowered to be an agent or broker, as the case may be, under its members' agreement, if a firm, or by its articles of incorporation, if a corporation;

(d) complete such minimum educational requirements for the issuance of an agent's license for the kinds of insurance specified in RCW 48.17.210 as may be required by regulation issued by the commissioner;

(e) successfully pass any examination as required under RCW 48.17.110;

(f) be a trustworthy person;

(g) ((~~not intend to use or use the license for the purpose principally of writing controlled business, as defined in RCW 48.17.080;~~

~~(h)~~))) if for an agent's license, be appointed as its agent by one or more authorized insurers, subject to issuance of the license; and

((~~(i)~~)) (h) if for broker's license, have had at least two years experience either as an agent, solicitor, adjuster, general agent, broker, or as an employee of insurers or representatives of insurers, and special education or training of sufficient duration and extent reasonably to satisfy the commissioner that he possesses the competence necessary to fulfill the responsibilities of broker.

(2) The commissioner shall by regulation establish minimum continuing education requirements for the renewal or reissuance of a license to an agent or a broker: PROVIDED, That the commissioner shall require that continuing education courses will be made available on a state-wide basis in order to ensure that persons residing in all geographical areas of this state will have a reasonable opportunity to attend such courses. The continuing education requirements shall be appropriate to the license for the kinds of insurance specified in RCW 48.17.210: PROVIDED FURTHER, That the continuing education requirements may be waived by the commissioner for good cause shown.

(3) If the commissioner finds that the applicant is so qualified and that the license fee has been paid, he shall issue the license. Otherwise, the commissioner shall refuse to issue the license.

Sec. 10. Section .17.23, chapter 79, Laws of 1947 and RCW 48.17.230 are each amended to read as follows:

A licensed agent appointed by an insurer as to life or disability insurances may, if with the knowledge and consent of such insurer, place any portion of a life or disability risk which has been rejected by such insurer, with other authorized insurers without being licensed as to such other insurers. Any agent so placing rejected business becomes the agent for the company issuing the insurance with respect to that business just as if it had appointed such person as its agent.

Sec. 11. Section .17.45, chapter 79, Laws of 1947 as amended by section 6, chapter 197, Laws of 1953 and RCW 48.17.450 are each amended to read as follows:

(1) Every licensed agent, broker, and adjuster, other than an agent licensed for life or disability insurances only, shall have and maintain in this state, or, if a nonresident agent or nonresident broker, in the state of his domicile, a place of business accessible to the public. Such place of business shall be that wherein the agent principally conducts transactions under his licenses. The address of his place of business shall appear on all licenses of the licensee, and the licensee shall promptly notify the commissioner of any change thereof. If the licensee maintains more than one place of business in this state, he shall obtain a duplicate of his license or licenses for each additional such place, and shall pay the full fee therefor.

(2) Any notice from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last address shown in the commissioner's licensing records. A licensee shall notify the commissioner of any change of address.

Sec. 12. Section .17.48, chapter 79, Laws of 1947 and RCW 48.17.480 are each amended to read as follows:

(1) An agent or any other representative of an insurer involved in the procuring or issuance of an insurance contract shall report to the insurer the exact amount of consideration charged as premium for such contract, and such amount shall likewise be shown in the contract and in the records of the agent. Each wilful violation of this provision shall constitute a misdemeanor.

(2) All funds representing premiums or return premiums received by an agent, solicitor or broker, shall be so received in his or her fiduciary capacity, and shall be promptly accounted for and paid to the insured, insurer, or agent as entitled thereto.

(3) Any person licensed under this chapter who receives funds which belong to or should be paid to another person as a result of or in connection with an insurance transaction is deemed to have received the funds in a fiduciary capacity. The licensee shall promptly account for and pay the funds to the person entitled to the funds.

(4) Any agent, solicitor, ((or)) broker, adjuster or other person licensed under this chapter who, not being lawfully entitled thereto, diverts or appropriates ((~~such~~)) funds received in a fiduciary capacity or any portion thereof to his or her own use, shall be guilty of larceny by embezzlement, and shall be punished as provided in the criminal statutes of this state.

Sec. 13. Section .17.49, chapter 79, Laws of 1947 and RCW 48.17.490 are each amended to read as follows:

(1) No agent, general agent, solicitor, or broker shall compensate or offer to compensate in any manner any person other than an agent, general agent, solicitor, or broker, licensed in this or any other state or province, for procuring or in any manner helping to procure applications for or to place insurance in this state. This provision shall not prohibit the payment of compensation not contingent upon volume of business transacted, in the

form of salaries to the regular employees of such agent, general agent, solicitor or broker, or the payment for services furnished by an unlicensed person who does not participate in the transaction of insurance in any way requiring licensing as an agent, solicitor, broker, or adjuster and who is not compensated on any basis dependent upon a sale of insurance being made.

(2) No such licensee shall be promised or allowed any compensation on account of the procuring of applications for or the placing of kinds of insurance which he himself is not then licensed to procure or place.

(3) The commissioner shall suspend or revoke the licenses of all licensees participating in any violation of this section.

Sec. 14. Section .17.54, chapter 79, Laws of 1947 as last amended by section 8, chapter 181, Laws of 1982 and RCW 48.17.540 are each amended to read as follows:

(1) The commissioner may revoke or refuse to renew any license issued under this chapter, or any surplus line broker's license, immediately and without hearing, upon sentencing of the licensee for conviction of a felony by final judgment of any court of competent jurisdiction, if the facts giving rise to such conviction demonstrate the licensee to be untrustworthy to maintain any such license.

(2) The commissioner may suspend, revoke, or refuse to renew any such license:

(a) By order given to the licensee not less than fifteen days prior to the effective date thereof, subject to the right of the licensee to have a hearing as provided in RCW 48.04.010; or

(b) By an order on hearing made as provided in RCW 34.04.120 effective not less than ten days after date of the giving of the order, subject to the right of the licensee to appeal to the superior court.

(3) The commissioner may temporarily suspend such license by order given to the licensee not less than three days prior to the effective date thereof, provided the order contains a notice of revocation and includes a finding that the public safety or welfare imperatively requires emergency action. Such suspension shall continue only until proceedings for revocation are concluded. The commissioner also may temporarily suspend such license in cases where proceedings for revocation are pending if he or she finds that the public safety or welfare imperatively requires emergency action.

Sec. 15. Section 1, chapter 69, Laws of 1986 and RCW 48.17.600 are each amended 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 willful violation of this section shall constitute a misdemeanor.

(5) This section shall not apply to agents for title insurance companies or insurance brokers whose average daily balance for premiums received on behalf of insureds in the state of Washington equals or exceeds one million dollars.

Sec. 16. Section 1, chapter 240, Laws of 1987 and RCW 48.22.060 are each amended to read as follows:

Every insurer that writes collision and comprehensive coverage for loss or damage to ((~~a motor vehicle~~)) "private passenger automobiles" or "motor homes," as those terms are defined in RCW 48.18.297 and 46.04.305, respectively, shall provide, upon the insured's request, coverage that will pay, in the event of total loss ((~~or damage~~)), an amount, in excess of the actual cash value of the vehicle, sufficient to satisfy any outstanding indebtedness secured by and incurred in conjunction with the financing of the purchase of a new ((~~motor vehicle~~)) private passenger automobile or motor home.

Nothing in this section prohibits an insurer from denying or excluding such coverage where the insured or someone acting on the insured's behalf acts in a fraudulent manner to obtain or file a claim under such coverage.

Sec. 17. Section 10, chapter 199, Laws of 1979 ex. sess. as amended by section 154, chapter 3, Laws of 1983 and RCW 48.30.157 are each amended to read as follows:

Notwithstanding the provisions of RCW 48.30.140, 48.30.150, and 48-.30.155, the commissioner may permit an agent or broker to enter into reasonable arrangements with insureds and prospective insureds to charge a reduced fee in situations where services that are charged for are provided beyond the scope of services customarily provided in connection with the solicitation and procurement of insurance, so that an overall charge to an insured or prospective insured is reasonable taking into account receipt of commissions and fees and their relation, proportionally, to the value of the total work performed.

Sec. 18. Section 20, chapter 193, Laws of 1957 as last amended by section 2, chapter 6, Laws of 1984 and RCW 48.30.260 are each amended to read as follows:

(1) Every debtor or borrower, when property insurance of any kind is required in connection with the debt or loan, shall have reasonable opportunity and choice in the selection of the agent, broker, and insurer through

whom such insurance is to be placed; but only if the insurance is properly provided for the protection of the creditor or lender not later than at commencement of risk as to such property as respects such creditor or lender, and in the case of renewal of insurance, only if the renewal policy, or a proper binder therefor containing a brief description of the coverage bound and the identity of the insurer in which the coverage is bound, is delivered to the creditor or lender not later than thirty days prior to the renewal date.

(2) Every person who lends money or extends credit and who solicits insurance on real and personal property must explain to the borrower in prominently displayed writing that the insurance related to such loan or credit extension may be purchased from an insurer or agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent as provided in subsection (3)(b) of this section.

(3) No person who lends money or extends credit may:

(a) Solicit insurance for the protection of ((~~real~~)) property, after a person indicates interest in securing a ((~~real estate~~)) loan or credit extension, until such person has received a commitment from the lender as to a loan or credit extension;

(b) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(c) Require that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan ((~~on real estate~~)), or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subsection does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document;

(d) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance;

(e) Require any procedures or conditions of duly licensed agents, brokers, or insurers not customarily required of those agents, brokers, or insurers affiliated or in any way connected with the person who lends money or extends credit; or

(f) Require property insurance in an amount in excess of the amount which could reasonably be expected to be paid under the policy, or combination of policies, in the event of a loss.

(4) Nothing contained in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(5) Nothing contained in this section shall apply to credit life or credit disability insurance.

Sec. 19. Section 13, chapter 197, Laws of 1961 as last amended by section 2, chapter 65, Laws of 1973 1st ex. sess. and RCW 48.44.160 are each amended to read as follows:

The insurance commissioner may, ((~~after notice and hearing,~~)) subject to a hearing if one is demanded pursuant to chapters 48.04 and 34.04 RCW, revoke, suspend, or refuse to accept or renew registration from any health care service contractor, or he may issue a cease and desist order, or bring an action in any court of competent jurisdiction to enjoin a health care service contractor from doing further business in this state, if such health care service contractor:

(1) Fails to comply with any provision of chapter 48.44 RCW or any proper order or regulation of the commissioner.

(2) Is found by the commissioner to be in such financial condition that its further transaction of business in this state would jeopardize the payment of claims and refunds to subscribers.

(3) Has refused to remove or discharge a director or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude, after written request by the commissioner for such removal, and expiration of a reasonable time therefor as specified in such request.

(4) Usually compels claimants under contracts either to accept less than the amount due them or to bring suit against it to secure full payment of the amount due.

(5) Is affiliated with and under the same general management, or interlocking directorate, or ownership as another health care contractor which operates in this state without having registered therefor, except as is permitted by this chapter.

(6) Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(7) Fails to pay any final judgment rendered against it in this state upon any contract, bond, recognizance, or undertaking issued or guaranteed by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after

dismissal of an appeal before final determination, whichever date is the later.

(8) Is found by the commissioner, after investigation or upon receipt of reliable information, to be managed by persons, whether by its directors, officers, or by any other means, who are incompetent or untrustworthy or so lacking in health care contracting or related managerial experience as to make the operation hazardous to the subscribing public; or that there is good reason to believe it is affiliated directly or indirectly through ownership, control, or other business relations, with any person or persons whose business operations are or have been marked, to the detriment of policyholders or stockholders, or investors or creditors or subscribers or of the public, by bad faith or by manipulation of assets, or of accounts, or of reinsurance.

NEW SECTION. Sec. 20. (1) The insurance commissioner shall establish a committee to review health care coverage relating to temporomandibular joint disorder. This committee shall include one member from each of the four caucuses of the legislature to be appointed by the appropriate presiding officer in the House or Senate, representatives of the commissioner, the medical and dental professions, insurers, health care service contractors, health maintenance organizations, health care providers and those representing persons with temporomandibular joint disorder.

(2) Not later than November 1, 1988, the commissioner shall receive a report from the committee established under this section. This report shall include any recommendations for legislation, if needed.

(3) Any legislative recommendations presented to the commissioner pursuant to this section shall be referred to the state health coordinating council for its review and recommendation.

(4) The committee established under this section shall be dissolved on January 1, 1989.

NEW SECTION. Sec. 21. Section 5 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 10, 1988.
Passed the Senate February 26, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 249

[Substitute House Bill No. 1320]

INSURANCE POLICIES—CANCELLATION, NONRENEWAL, RENEWABLE

AN ACT Relating to cancellation and renewal of insurance policies; amending RCW 48-.18.289, 48.18.290, and 48.18.2901; and providing an effective date.

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

Sec. 1. Section 1, chapter 14, Laws of 1987 and RCW 48.18.289 are each amended to read as follows:

Whenever a notice of cancellation or nonrenewal or an offer to renew is ((~~required to be~~)) furnished to an insured ((~~under~~)) in accord with any provision of this chapter, a copy of such notice or offer shall be provided at the same time to the agent on the account or to the broker of record for the insured.

Sec. 2. Section .18.29, chapter 79, Laws of 1947 as last amended by section 1, chapter 287, Laws of 1986 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 which does not contain a clearly stated expiration date, 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 named insured ((~~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 prepaid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person as soon as possible, and no later than forty-five days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid, or to contracts of insurance procured under the provisions of chapter 48.15 RCW.

Sec. 3. Section 20, chapter 264, Laws of 1985 as amended by section 2, chapter 287, Laws of 1986 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, either directly or through its agent, 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, and the insured fails to discharge when due his or her obligation in connection with the payment of such premium or portion thereof; or

(c) The ((~~insured's agent or broker~~)) insured has procured ((~~other~~)) equivalent coverage ((~~acceptable to the insured~~)) prior to the expiration of the policy period; or

(d) The contract is evidenced by a written binder containing a clearly stated expiration date which has expired according to its terms.

(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~~)) Any insurer failing to include in the notice required by subsection (1)(b) of this section the amount of any increased premium resulting from a change of rates and an explanation of any change in the contract provisions shall renew the policy if so required by that subsection according to the rates and contract provisions applicable to the expiring policy: PROVIDED, That renewal based on the rates and contract provisions applicable to the expiring policy shall not prevent the insurer from making changes in the rates and/or contract provisions of the policy once during the term of its renewal

after at least twenty days' advance notice of such change has been given to the named insured.

(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.

(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.

NEW SECTION. Sec. 4. This act shall take effect September 1, 1988.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 250

[Engrossed Senate Bill No. 6720]
WASTE TIRES

AN ACT Relating to the disposal of waste tires; amending RCW 70.95.530; adding new sections to chapter 70.95 RCW; creating a new section; and prescribing penalties.

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

Sec. 1. Section 7, chapter 345, Laws of 1985 and RCW 70.95.530 are each amended to read as follows:

Moneys in the account may be appropriated to the department of ecology:

(1) To provide for funding to state and local governments for the removal of discarded vehicle tires from unauthorized tire dump sites; ((~~and~~))

(2) To accomplish the other purposes of RCW 70.95.020(5); and

(3) To fund the study authorized in section 2 of this 1988 act.

In spending funds in the account under this section, the department of ecology shall identify communities with the most severe problems with

waste tires and provide funds first to those communities to remove accumulations of waste tires.

NEW SECTION. Sec. 2. (1) The waste tire advisory committee is established consisting of representatives of cities, counties, tire dealers, tire processors, the department of ecology, the department of community development, the department of transportation, and interested citizens to study and develop a report on methods to address the waste tire problem in Washington state. The governor shall appoint members to the advisory committee. The persons appointed to the committee shall elect a chairperson and shall meet at the call of the chairperson. Members of the committee shall not receive compensation but shall be reimbursed for travel expenses as provided under RCW 43.03.050 and 43.03.060.

(2) The department shall provide staff support for the committee.

(3) The committee's report shall include recommendations on the following:

(a) The adequacy of current waste tire programs and recommendations for changes;

(b) The geographical distribution and number of existing tire dumps and collection sites;

(c) Financial responsibility requirements needed to cover tire collectors and processors;

(d) The optimum number and location of collection sites to facilitate the processing of waste tires;

(e) Alternative methods, including the costs, of collecting waste tires that are in small tire dumps and from persons or businesses that generate waste tires;

(f) The options for recycling waste tires including the current uses of recycled waste tires and the feasibility of developing future uses;

(g) Methods to establish reliable sources of waste tires for users of waste tires;

(h) The types of facilities in this state that can use waste tires as a fuel source, the cost of equipment needed to modify existing types of facilities, the cost of test burns, the feasibility of operating each type of facility using waste tires as a fuel source, and the locations of those facilities; and

(i) The establishment of a state-wide waste tire collection system.

(2) The report shall be submitted to the appropriate standing committees of the legislature by December 1, 1988.

(3) This section shall expire January 1, 1989.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 4 through 6 of this act.

(1) "Storage" or "storing" means the placing of more than eight hundred waste tires in a manner that does not constitute final disposal of the waste tires.

(2) "Transportation" or "transporting" means picking up or transporting waste tires for the purpose of storage or final disposal.

(3) "Waste tires" means tires that are no longer suitable for their original intended purpose because of wear, damage, or defect.

NEW SECTION. Sec. 4. Any person engaged in the business of transporting or storing waste tires shall be licensed by the department. To obtain a license, each applicant must:

(1) Provide assurances that the applicant is in compliance with this chapter and the rules regarding waste tire storage and transportation; and

(2) Post a bond in the sum of ten thousand dollars in favor of the state of Washington. In lieu of the bond, the applicant may submit financial assurances acceptable to the department.

NEW SECTION. Sec. 5. Any person who transports or stores waste tires without a license in violation of section 4 of this act shall be guilty of a gross misdemeanor and upon conviction shall be punished under RCW 9A.20.020(2).

NEW SECTION. Sec. 6. No business may enter into a contract for:

(1) Transportation of waste tires with an unlicensed waste tire transporter; or

(2) Waste tire storage with an unlicensed owner or operator of a waste tire storage site.

NEW SECTION. Sec. 7. Sections 3 through 6 of this act are each added to chapter 70.95 RCW.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 251

[Substitute House Bill No. 1568]

EXCELLENCE IN EDUCATION--ADMINISTRATORS INCLUDED IN PROGRAM

AN ACT Relating to excellence in education; and amending RCW 28A.03.523, 28A.03-.532, 28A.03.535, and 28A.04.122.

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

Sec. 1. Section 2, chapter 147, Laws of 1986 as amended by section 209, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.03.523 are each amended to read as follows:

(1) The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals, administrators, 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. Teachers shall include educational staff associates;

(b) Three principals or administrators 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 or administrators 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 or administrators 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 or administrators shall include:

(a) A waiver of tuition and fees under RCW 28B.15.547 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 RCW 28B.15.547. The stipend shall not be considered compensation for the purposes of RCW 28A.58.0951; or

(b) Teachers and principals or administrators, 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 RCW 28A-.03.535. Within one year of receiving the award for excellence in education, teachers and principals or administrators 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.

Sec. 2. Section 5, chapter 147, Laws of 1986 and RCW 28A.03.532 are each amended 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, educational staff associates, principals, administrators, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of RCW

28A.03.523(1) (a) and (b), 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.

Sec. 3. Section 7, chapter 147, Laws of 1986 and RCW 28A.03.535 are each amended to read as follows:

Teachers and principals or administrators who have received an award for excellence in education under RCW 28A.03.523 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 RCW 28A.03.523(3). 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.

Sec. 4. Section 202, chapter 525, Laws of 1987 and RCW 28A.04.122 are each amended to read as follows:

(1) No person may be admitted to a professional teacher preparation program within Washington state without first demonstrating that he or she is competent in the basic skills required for oral and written communication and computation. This requirement shall be waived for persons who have completed a baccalaureate degree; or graduate degree program; or who have completed two or more years of college level course work, demonstrated competency through college level course work and a written essay, and are over the age of twenty-one.

(2) After June 30, 1989, no person shall be admitted to a teacher preparation program who has a combined score of less than the state-wide median score for the prior school year scored by all persons taking the Washington precollege test or who has achieved an equivalent standard score on comparable portions of other standardized tests. The state board of education shall develop criteria and adopt rules for exemptions from this subsection.

(3) The state board of education shall adopt rules to implement this section.

Passed the House March 9, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 252

[Substitute House Bill No. 1915]
SCHOOL DISTRICT LEVIES

AN ACT Relating to specification of school district levy bases and levy reduction funds; amending RCW 84.52.0531; and declaring an emergency.

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

Sec. 1. Section 1, chapter 374, Laws of 1985 as last amended by section 101, chapter 2, Laws of 1987 1st ex. sess. and RCW 84.52.0531 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For the purpose of this section, the basic education allocation shall be determined pursuant to RCW 28A.41.130, 28A.41.140, and 28A.41.145, as now or hereafter amended: PROVIDED, That when determining the basic education allocation under subsection (4) of this section, nonresident full time equivalent pupils who are participating in a program provided for in chapter 28A.44 RCW or in any other program pursuant to an interdistrict agreement shall be included in the enrollment of the resident district and excluded from the enrollment of the serving district.

(2) For the purposes of subsection (5) of this section, a base year levy percentage shall be established. The base year levy percentage shall be equal to the greater of: (a) The district's actual levy percentage for calendar year 1985, (b) the average levy percentage for all school district levies in the state in calendar year 1985, or (c) the average levy percentage for all school district levies in the educational service district of the district in calendar year 1985.

(3) For excess levies for collection in calendar year 1988 and thereafter, the maximum dollar amount shall be the total of:

(a) The district's levy base as defined in subsection (4) of this section multiplied by the district's maximum levy percentage as defined in subsections (5) and (6) of this section; plus

(b) In the case of nonhigh districts only, an amount equal to the total estimated amount due by the nonhigh school district to high school districts pursuant to chapter 28A.44 RCW for the school year during which collection of the levy is to commence, less the increase in the nonhigh school district's basic education allocation as computed pursuant to subsection (1) of this section due to the inclusion of pupils participating in a program provided for in chapter 28A.44 RCW in such computation; less

(c) The maximum amount of state matching funds under RCW 28A.41.155 for which the district is eligible in that tax collection year.

(4) For excess levies for collection in calendar year 1988 and thereafter, a district's levy base shall be the sum of the following allocations received by the district for the prior school year, including allocations for compensation increases, ((~~multiplied~~)) adjusted by the percent increase per full time equivalent student in the state basic education appropriation between the prior school year and the current school year:

(a) The district's basic education allocation as determined pursuant to RCW 28A.41.130, 28A.41.140, and 28A.41.145;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Handicapped education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) State-wide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(5) For levies to be collected in calendar year 1988, a district's maximum levy percentage shall be determined as follows:

(a) Multiply the district's base year levy percentage as defined in subsection (2) of this section by the district's levy base as determined in subsection (4) of this section;

(b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection (7) of this section which are to be allocated to the district for the 1987-88 school year;

(c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage; and

(d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in calendar year 1988.

(6) For excess levies for collection in calendar year 1989 and thereafter, a district's maximum levy percentage shall be determined as follows:

(a) Multiply the district's maximum levy percentage for the prior year or thirty percent, whichever is less, by the district's levy base as determined in subsection (4) of this section;

(b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection (7) of this section which are to be allocated to the district for the current school year;

(c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage; and

(d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in that calendar year.

(7) "Levy reduction funds" shall mean ((~~increases in state funds allocated to a district~~)) enhancements in state funding formulas for programs included under subsection (4) of this section ((~~that are not attributable to enrollment or workload changes, compensation increases, or inflationary adjustments recognized in state allocation formulas. Any other increases in~~

~~state allocations from the district's allocations for the prior school year that are not specifically excluded in this subsection shall be considered levy reduction funds~~)), as specified in this subsection. In the case of levies for collection in 1989 and thereafter, for each such program, levy reduction funds shall be the difference between:

(a) The district's state allocation for such program for the current school year calculated using the formula for distributing state funds for the program in the current school year; and

(b) The state allocation for such program that the district would receive for the program in the current school year if the formula used for distributing state funds for the program in the prior year were adopted in computing such allocation.

In all calculations under this subsection, formula factors shall be adjusted to reflect the salary levels and benefit rates to be used for state funding in the current school year and the allocations for nonemployee-related costs shall reflect adjustments for cost inflation from the prior school year as recognized in the current school year funding formula. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data.

In the case of levies for collection in calendar year 1988, levy reduction funds are those funds defined as levy reduction funds under the rules adopted by the superintendent of public instruction as of March 1, 1988, and do not include state allocations of local education program enhancement funds.

(8) For the purposes of this section, "prior school year" shall mean the most recent school year completed prior to the year in which the levies are to be collected.

(9) For the purposes of this section, "current school year" shall mean the year immediately following the prior school year.

(10) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

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

Passed the House March 9, 1988.
Passed the Senate March 9, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 253

[Substitute Senate Bill No. 6512]

FEDERAL CONSERVATION RESERVE PROGRAM—TAX EXEMPTIONS

AN ACT Relating to tax exemptions for participants in the federal conservation reserve programs; amending RCW 82.04.330 and 84.34.020; and reenacting and amending RCW 82.04.050.

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 2, chapter 23, Laws of 1987 and by section 1, chapter 285, Laws of 1987 and RCW 82.04.050 are each reenacted and amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale, or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon, or (e) purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) 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 charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner; (d) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; (e) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (g) the sale of or charge made for tangible personal property, labor and services

to persons taxable under (a), (b), (c), (d), (e), and (f) 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~~)). The term shall also not include sales of feed, seed, seedlings, fertilizer, and spray materials to persons who participate in the federal conservation reserve program or its successor administered by the United States department of agriculture, or to 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. 2. Section 4, chapter 23, Laws of 1987 and RCW 82.04.330 are each 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 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.

This chapter shall also not apply to any persons who participate in the federal conservation reserve program or its successor administered by the United States department of agriculture with respect to land enrolled in that program.

Sec. 3. Section 2, chapter 87, Laws of 1970 ex. sess. as last amended by section 227, chapter 3, Laws of 1983 and RCW 84.34.020 are each amended to read as follows:

As used in this chapter, unless a different meaning is required by the context:

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public

of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) retain in its natural state tracts of land not less than five acres situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification.

(2) "Farm and agricultural land" means either (a) land in any contiguous ownership of twenty or more acres (i) devoted primarily to the production of livestock or agricultural commodities for commercial purposes, or (ii) enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; (b) any parcel of land five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to one hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter; or (c) any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income of one thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Agricultural lands shall also include farm woodlots of less than twenty and more than five acres and the land on which appurtenances necessary to the production, preparation or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands".

(3) "Timber land" means land in any contiguous ownership of five or more acres which is devoted primarily to the growth and harvest of forest crops and which is not classified as reforestation land pursuant to chapter 84.28 RCW. Timber land means the land only.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the county assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.

(6) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall be considered contiguous.

Passed the Senate February 12, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 254

[Engrossed Substitute Senate Bill No. 6344]
AGRICULTURE—REVISIONS

AN ACT Relating to agriculture; amending RCW 15.49.470, 15.54.480, 15.52.320, 15-.53.9044, 15.30.040, 15.09.030, 69.04.930, 20.01.030, 22.09.011, 15.88.030, 15.88.040, 15.88-.100, 20.01.080, 20.01.380, 20.01.370, 20.01.460, and 70.79.090; adding a new section to chapter 43.23 RCW; adding a new section to chapter 69.07 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 43.23 RCW to read as follows:

The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation.

Sec. 2. Section 47, chapter 63, Laws of 1969 as last amended by section 176, chapter 202, Laws of 1987 and RCW 15.49.470 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid ((~~into the seed fund in the state treasury which is hereby established~~)) to the director and deposited in an account within the agricultural local fund. Such ((~~fund~~)) deposits shall be used only in the administration and enforcement of this chapter. ((~~All moneys collected under the provisions of chapter 15.49 RCW and remaining in such seed fund account on July 1, 1975, shall likewise be used only in the enforcement of this chapter: PROVIDED, That~~)) Any residual balance remaining in the seed fund on the effective date of this 1988 section shall be transferred to that account within the agricultural local fund. All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 3. Section 36, chapter 22, Laws of 1967 ex. sess. as amended by section 11, chapter 257, Laws of 1975 1st ex. sess. and RCW 15.54.480 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid ((~~into the fertilizer, agricultural mineral and lime fund in the state treasury which is hereby established~~)) to the director and deposited in an account within the agricultural local fund. Such ((~~fund~~)) deposits shall be used only

in the administration and enforcement of this chapter. ((~~All moneys collected under the provisions of chapter 15.54 RCW and remaining in such fertilizer, agricultural mineral and lime account in the state general fund on July 1, 1975, shall likewise be used only in the enforcement of this chapter.~~)) Any residual balance remaining in the fertilizer, agricultural mineral and lime fund on the effective date of this 1988 section shall be transferred to that account within the agricultural local fund.

Sec. 4. Section 15.52.320, chapter 11, Laws of 1961 as amended by section 2, chapter 57, Laws of 1985 and RCW 15.52.320 are each amended to read as follows:

All money collected as fees for brand registrations hereunder shall be paid to the director and deposited in ((~~a special~~)) an account ((~~in the state treasury known as the feed and fertilizer account, and~~)) within the agricultural local fund. Such deposits shall be used exclusively for the maintenance and enforcement of this chapter, except that not to exceed fifteen percent of said registration fees may, with the consent of the director, be used to purchase equipment and materials to facilitate testing and analyzing required herein. ((~~All earnings of investments of balances in the feed and fertilizer account shall be credited to the general fund.~~)) Any residual balance remaining in the feed and fertilizer account on the effective date of this 1988 section shall be transferred to the account within the agricultural local fund.

Sec. 5. Section 19, chapter 31, Laws of 1965 ex. sess. as amended by section 8, chapter 257, Laws of 1975 1st ex. sess. and RCW 15.53.9044 are each amended to read as follows:

All moneys collected under ((~~the provisions of~~)) this chapter shall be paid ((~~into the commercial feed fund in the state treasury which is hereby established~~)) to the director and deposited in an account within the agricultural local fund. Such ((~~fund~~)) deposits shall be used only in the administration and enforcement of this chapter. ((~~All moneys collected under the provisions of chapter 15.53 RCW and remaining in such commercial feed account in the state general fund on the effective date of this chapter, shall be used in enforcement of this chapter.~~)) Any residual balance remaining in the commercial feed fund on the effective date of this 1988 section shall be transferred to the account within the agricultural local fund.

Sec. 6. Section 4, chapter 29, Laws of 1961 and RCW 15.30.040 are each amended to read as follows:

The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee ((~~of five dollars~~)) prescribed by the director by rule.

Sec. 7. Section 3, chapter 113, Laws of 1969 and RCW 15.09.030 are each amended to read as follows:

Each horticultural pest and disease board shall be comprised of five voting members, four of whom shall be appointed by the board of county commissioners and one of whom shall be ((~~the inspector at large for the horticultural district in which the county is located~~)) appointed by the director. In addition, the chief county extension agent, or a county extension agent appointed by the chief agent, shall be a nonvoting member of the board.

Of the four members appointed by the board of county commissioners, one of such members shall have at least a practical knowledge of horticultural pests and diseases, and the other members shall be residents of the county, shall own land within the county and shall be engaged in the primary and commercial production of a horticultural product or products. Such appointed members shall serve a term of two years and shall serve without salary.

Sec. 8. Section 1, chapter 39, Laws of 1975 as amended by section 179, chapter 46, Laws of 1983 1st ex. sess. and RCW 69.04.930 are each amended to read as follows:

It shall be unlawful for any person to sell at retail or display for sale at retail any food fish or shellfish as defined in RCW 75.08.011, any meat capable of use as human food as defined in RCW 16.49A.150 as now or hereafter amended, or any meat food product as defined in RCW 16.49A-.130 as now or hereafter amended which has been frozen ((~~subsequent to being offered for sale or distribution to the ultimate consumer~~)) at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such food fish or shellfish, meat or meat food product shall be sold unless in such a package or container bearing said label: PROVIDED, That this section shall not include any of the aforementioned food or food products that have been frozen prior to being smoked, cured, cooked or subjected to the heat of commercial sterilization.

NEW SECTION. Sec. 9. A new section is added to chapter 69.07 RCW to read as follows:

The department may issue sanitary certificates to food processors under this chapter subject to such requirements as it may establish by rule. The fee for issuance shall be twenty dollars per certificate. Fees collected under this section shall be deposited in the agricultural local fund.

Sec. 10. Section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 305, Laws of 1983 and RCW 20.01.030 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the

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

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

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040;

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

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

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

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

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

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

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

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

Sec. 11. Section 16, chapter 305, Laws of 1983 as amended by section 19, chapter 393, Laws of 1987 and RCW 22.09.011 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly authorized representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(4) "Agricultural commodities," ((~~hereinafter referred to as~~)) or "commodities," means((~~, but is not limited to,~~)): (a) All the grains, peas, beans, lentils, corn, sorghums, malt, peanuts, and flax((~~,~~)); and (b) other ((~~similar~~)) agricultural products similar to those listed in (a) of this subsection which have been designated by the department by rule.

(5) "Warehouse," also referred to as a public warehouse, means any elevator, mill, subterminal grain warehouse, terminal warehouse, country warehouse, or other structure or enclosure located in this state that is used or useable for the storage of agricultural products, and in which commodities are received from the public for storage, handling, conditioning, or shipment for compensation. The term does not include any warehouse storing or handling fresh fruits and/or vegetables, any warehouse used exclusively for cold storage, or any warehouse that conditions yearly less than three hundred tons of an agricultural commodity for compensation.

(6) "Terminal warehouse" means any warehouse designated as a terminal by the department, and located at an inspection point where inspection facilities are maintained by the department and where commodities are ordinarily received and shipped by common carrier.

(7) "Subterminal warehouse" means any warehouse that performs an intermediate function in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated before shipment to a terminal warehouse.

(8) "Station" means two or more warehouses between which commodities are commonly transferred in the ordinary course of business and that are (a) immediately adjacent to each other, or (b) located within the corporate limits of any city or town and subject to the same transportation tariff zone, or (c) at any railroad siding or switching area and subject to the same transportation tariff zone, or (d) at one location in the open country off rail, or (e) in any area that can be reasonably audited by the department as a station under this chapter and that has been established as such by the director by rule adopted under chapter 34.04 RCW, or (f) within twenty

miles of each other but separated by the border between Washington and Idaho or Oregon when the books and records for the station are maintained at the warehouse located in Washington.

(9) "Inspection point" means a city, town, or other place wherein the department maintains inspection and weighing facilities.

(10) "Warehouseman" means any person owning, operating, or controlling a warehouse in the state of Washington.

(11) "Depositor" means (a) any person who deposits a commodity with a Washington state licensed warehouseman for storage, handling, conditioning, or shipment, or (b) any person who is the owner or legal holder of a warehouse receipt, outstanding scale weight ticket, or other evidence of the deposit of a commodity with a Washington state licensed warehouseman or (c) any producer whose agricultural commodity has been sold to a grain dealer through the dealer's place of business located in the state of Washington, or any Washington producer whose agricultural commodity has been sold to or is under the control of a grain dealer, whose place of business is located outside the state of Washington.

(12) "Historical depositor" means any person who in the normal course of business operations has consistently made deposits in the same warehouse of commodities produced on the same land. In addition the purchaser, lessee, and/or inheritor of such land from the original historical depositor with reference to the land shall be considered a historical depositor with regard to the commodities produced on the land.

(13) "Grain dealer" means any person who, through his place of business located in the state of Washington, solicits, contracts for, or obtains from a producer, title, possession, or control of any agricultural commodity for purposes of resale, or any person who solicits, contracts for, or obtains from a Washington producer, title, possession, or control of any agricultural commodity for purposes of resale.

(14) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in and is entitled to receive all or any part of the proceeds from the sale of a commodity produced on that land.

(15) "Warehouse receipt" means a negotiable or nonnegotiable warehouse receipt as provided for in Article 7 of Title 62A RCW.

(16) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (15) of this section, given a depositor on request upon initial delivery of the commodity to the warehouse and showing the warehouse's name and state number, type of commodity, weight thereof, name of depositor, and the date delivered.

(17) "Put through" means agricultural commodities that are deposited in a warehouse for receiving, handling, conditioning, or shipping, and on which the depositor has concluded satisfactory arrangements with the warehouseman for the immediate or impending shipment of the commodity.

(18) "Conditioning" means, but is not limited to, the drying or cleaning of agricultural commodities.

(19) "Deferred price contract" means a contract for the sale of commodities that conveys the title and all rights of ownership to the commodities represented by the contract to the buyer, but allows the seller to set the price of the commodities at a later date based on an agreed upon relationship to a future month's price or some other mutually agreeable method of price determination. Deferred price contracts include but are not limited to those contracts commonly referred to as delayed price, price later contracts, or open price contracts.

(20) "Shortage" means that a warehouseman does not have in his possession sufficient commodities at each of his stations to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him for the station.

(21) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay depositors for commodities purchased by a licensee in the ordinary course of business and where a bona fide dispute does not exist between the licensee and the depositor;

(e) A failure to make application for license renewal within sixty days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

Sec. 12. Section 3, chapter 452, Laws of 1987 and RCW 15.88.030 are each amended to read as follows:

(1) There is created an agricultural commodity commission to be known and designated as the Washington wine commission. Except as provided in RCW 15.88.100(2), the commission shall be composed of eleven voting members; five voting members shall be growers, five voting members shall be wine producers, and one voting member shall be a wine wholesaler licensed under RCW 66 24.200. Of the grower members, at least one shall be a person who does not have over fifty acres of vinifera grapes in production, at least one shall be a person who has over one hundred acres of vinifera grapes in production, and two may be persons who produce and sell their own wine. Of the wine producer members, at least one shall be a person producing not more than twenty-five thousand gallons of wine annually, at least one shall be a person producing over one million gallons of wine annually, and at least two shall be persons who produce wine from their

own grapes. In addition, at least one member shall be a wine producer located in western Washington and at least two members shall be wine producers located in eastern Washington.

(2) In addition to the voting members identified in subsection (1) of this section, the commission shall have one nonvoting member who is a wine producer in this state whose principal wine or wines are produced from fruit other than vinifera grapes. The director of agriculture, or the director's designee, shall serve as an ex officio, nonvoting member.

(3) Except as provided in RCW 15.88.100(2), seven voting members of the commission constitute a quorum for the transaction of any business of the commission.

(4) Each voting member of the commission shall be a citizen and resident of this state and over the age of twenty-one years. Each voting member, except the member holding position eleven, must be or must have been engaged in that phase of the grower or wine producer industry that he or she is appointed to represent, and must during his or her term of office derive a substantial portion of income therefrom, or have a substantial investment in the growing of vinifera grapes or the production of wine from vinifera grapes as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the growing of vinifera grapes or wine production from vinifera grapes; or the manager or executive officer of such a corporation. These qualifications apply throughout each member's term of office.

Sec. 13. Section 4, chapter 452, Laws of 1987 and RCW 15.88.040 are each amended to read as follows:

The appointive voting positions on the commission shall be designated as follows: The wine producers shall be designated positions one, two, three, four, and five; the growers shall be designated positions six, seven, eight, nine, and ten; and the wine wholesaler shall be position eleven. The nonvoting industry member shall be designated position number twelve. The member designated as filling position one shall be a person producing over one million gallons of wine annually. The member designated as position one shall be the sole representative, directly or indirectly, of the producer eligible to hold position one and in no event shall that producer directly or indirectly control more than fifty percent of the votes of the commission.

Except as provided in RCW 15.88.100(2), the regular terms of office shall be three years from the date of appointment and until their successors are appointed. However, the first terms of the members appointed upon July 1, 1987, shall be as follows: Positions one, six, and eleven shall terminate July 1, 1990; positions two, four, seven, and nine shall terminate July 1, 1989; and positions three, five, eight, and ten shall terminate July 1, 1988. The term of the initial nonvoting industry member shall terminate July 1, 1990.

Sec. 14. Section 10, chapter 452, Laws of 1987 and RCW 15.88.100 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the vote of each of the voting members of the commission shall be weighted as provided by this subsection for the transaction of any of the business of the commission. The total voting strength of the entire voting membership of the commission shall be eleven votes. The vote of position one shall be equal to the lesser of the following: Five and one-half votes; or eleven votes times the percentage of the wine produced in the state that is produced by the person filling position one. The percentage shall be based upon the amount of wine produced in the previous calendar year and shall be rounded to the nearest ten percent. The remaining votes of the membership of the commission shall be divided equally among the remaining members of the commission.

(2) In the event the assessment described in RCW 66.24.215(1)(b) is not effective on July 1, 1989, the positions designated for growers cease to exist. In such an event, the commission shall be composed of six voting members and ((~~one~~)) two nonvoting members. The nonvoting industry member shall be position seven. Four voting members of the commission constitute a quorum for the modified commission. Of the six votes of the entire voting membership of the modified commission, the vote of position one shall be the lesser of the following: Three votes; or six votes times the percentage of the wine produced in the state that is produced by the person filling position one. The percentage shall be based upon the amount of wine produced in the previous calendar year and shall be rounded to the nearest ten percent. The remaining votes of the membership of the commission shall be divided equally among the remaining members of the commission.

(3) In the event that the percentage of wine produced by the producer represented by position one falls below twenty-five percent of the wine produced in this state, the weighted voting mechanism provided for in subsections (1) and (2) of this section shall cease to be effective. In that case, the voting shall be based on one vote per position.

NEW SECTION. Sec. 15. Section 14 of this act shall take effect July 1, 1989.

Sec. 16. Section 8, chapter 139, Laws of 1959 as last amended by section 4, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.080 are each amended to read as follows:

Any person applying for a commission merchant's license shall include in his or her application a schedule of commissions, together with an itemized list of all charges for services to be rendered to a consignor and shall post a copy of such charges on his or her premises in a conspicuous place where it is clearly visible and available to consignors. In addition to the posting of the itemized list of charges, such list shall be distributed to each consignor along with each contract entered into between the consignor and

the commission merchant. Such commissions and charges shall not be changed or varied for the license period except by written contract between the consignor or his or her agent and the licensee or thirty days after written notice to the director, and proper posting of such changes, as prescribed by the director, on the licensee's premises. Charges for services rendered and not listed on the schedule of commissions and charges filed with the director, or for increases in charges listed and filed which are directly caused by increases in labor rates or in cost of materials which occur after the signing of the contract by the grower, shall be rendered only on an actual cost to the licensee basis.

Sec. 17. Section 38, chapter 139, Laws of 1959 as last amended by section 33, chapter 296, Laws of 1981 and RCW 20.01.380 are each amended to read as follows:

Every dealer or cash buyer purchasing any agricultural products from the consignor thereof shall promptly make and keep for one year a correct record showing in detail the following:

(1) The name and address of the consignor.

(2) The date received.

(3) The terms of the sale.

(4) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(5) An itemized statement of any charges paid by the dealer or cash buyer for the account of the consignor.

(6) The name and address of the purchaser: PROVIDED, That the name and address of the purchaser may be deleted from the record furnished to the consignor.

(7) A copy of the itemized list of charges required under RCW 20.01-.080 in effect on the date the terms of sale were agreed upon.

A copy of such record containing the above matters shall be forwarded to the consignor forthwith.

Livestock dealers must also maintain individual animal identification and disposition records as may be required by law, or regulation adopted by the director.

Sec. 18. Section 37, chapter 139, Laws of 1959 as last amended by section 5, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.370 are each amended to read as follows:

Every commission merchant taking control of any agricultural products for sale as such commission merchant, shall promptly make and keep for a period of one year, beginning on the day the sale of the product is complete, a correct record showing in detail the following with reference to the handling, sale, or storage of such agricultural products:

(1) The name and address of the consignor.

(2) The date received.

(3) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(4) ((~~Date of such sale for account of consignor.~~

~~(5) The terms of the sale.~~

~~(6)~~)) An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold, and proof of payments received on behalf of the consignor.

(5) The terms of payment to the producer.

(((~~7~~))) (6) An itemized statement of the charges to be paid by consignor in connection with the sale.

(((~~8~~))) (7) The names and addresses of all purchasers if said commission merchant has any financial interest in the business of said purchasers, or if said purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise. Such interest shall be noted in said records following the name of any such purchaser.

(((~~9~~))) (8) A lot number or other identifying mark for each consignment, which number or mark shall appear on all sales tags and other essential records needed to show what the agricultural products actually sold for.

(((~~10~~))) (9) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such agricultural products by the act, neglect or failure of such person and such records shall be open to the inspection of the director and the consignor of agricultural products for whom such claim or claims are made.

Where a pooling arrangement is agreed to in writing between the consignor and commission merchant, the reporting requirements of subsections (4), (5), (6), (((~~7~~),)) and (((~~9~~))) (8) of this section shall apply to the pool rather than to the individual consignor or consignment and the records of the pool shall be available for inspection by any consignor to that pool.

The commission merchant shall transmit a copy of the record required by this section to the consignor on the same day the final remittance is made to the consignor as required by RCW 20.01.430 as now or hereafter amended.

Sec. 19. Section 46, chapter 139, Laws of 1959 as last amended by section 13, chapter 178, Laws of 1986 and RCW 20.01.460 are each amended to read as follows:

(1) Any person who violates the provisions of this chapter or fails to comply with the rules adopted under this chapter is guilty of a gross misdemeanor, except as provided in subsections (2) and (3) of this section.

(2) Any commission merchant, dealer, or cash buyer, or any person assuming or attempting to act as a commission merchant, dealer, or cash buyer without a license is guilty of a class C felony who:

(a) Imposes false charges for handling or services in connection with agricultural products.

(b) Makes fictitious sales or is guilty of collusion to defraud the consignor.

(c) Intentionally makes false statement or statements as to the grade, conditions, markings, quality, or quantity of goods shipped or packed in any manner.

(d) Fails to comply with the payment requirements set forth under RCW 20.01.010(10), 20.01.390 or 20.01.430.

(3) Any person who violates the provisions of RCW 20.01.040, 20.01-.080, 20.01.120, 20.01.125, 20.01.410 or 20.01.610 has committed a civil infraction.

Sec. 20. Section 9, chapter 32, Laws of 1951 as last amended by section 174, chapter 3, Laws of 1983 and RCW 70.79.090 are each amended to read as follows:

The following boilers and unfired pressure vessels shall be exempt from the requirements of RCW 70.79.220 and 70.79.240 through 70.79.330:

(1) Boilers or unfired pressure vessels located on farms and used solely for agricultural purposes;

(2) Unfired pressure vessels that are part of fertilizer applicator rigs designed and used exclusively for fertilization in the conduct of agricultural operations;

(3) Steam boilers used exclusively for heating purposes carrying a pressure of not more than fifteen pounds per square inch gauge and which are located in private residences or in apartment houses of less than six families;

((~~(3)~~)) (4) Hot water heating boilers carrying a pressure of not more than thirty pounds per square inch and which are located in private residences or in apartment houses of less than six families;

((~~(4)~~)) (5) Approved pressure vessels (hot water heaters listed by a nationally recognized testing agency), with approved safety devices including a pressure relief valve, with a nominal water containing capacity of one hundred twenty gallons or less having a heat input of two hundred thousand b.t.u.'s per hour or less, used for hot water supply at pressure of one hundred sixty pounds per square inch or less, and at temperatures of two hundred degrees Fahrenheit or less: PROVIDED, HOWEVER, That such pressure vessels are not installed in schools, child care centers, public and private hospitals, nursing and boarding homes, churches, public buildings owned or leased and maintained by the state or any political subdivision thereof, and assembly halls;

((~~(5)~~)) (6) Unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping systems, when located in private residences or in apartment houses of less than six families;

((~~(6)~~)) (7) Unfired pressure vessels containing liquified petroleum gases.

Passed the Senate March 9, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 255

[Substitute Senate Bill No. 5333]

STATE BOARD OF EDUCATION—MEMBERSHIP AND VOTING REVISED

AN ACT Relating to the state board of education; and amending RCW 28A.04.010, 28A.04.020, and 28A.04.050.

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

Sec. 1. Section 28A.04.010, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 179, Laws of 1980 and RCW 28A.04.010 are each amended to read as follows:

The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, the superintendent of public instruction and one ((~~nonvoting~~)) member elected at large, as hereinafter in this chapter provided, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.02.201, as now or hereafter amended. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board.

Sec. 2. Section 28A.04.020, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 38, Laws of 1981 and RCW 28A.04.020 are each amended to read as follows:

Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the following elections to be held: An election in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and an election of the ((~~nonvoting~~)) member of the state board of education representing private schools if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the chairperson of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include the

election calendar and rules and regulations established by the superintendent of public instruction for the conduct of the election.

Sec. 3. Section 28A.04.050, chapter 223, Laws of 1969 ex. sess. as amended by section 2, chapter 38, Laws of 1981 and RCW 28A.04.050 are each amended to read as follows:

Each member of the board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his congressional district. Each chairperson of the board of directors of each eligible private school shall cast a vote for the candidate receiving a majority in an election to be held as follows: Each member of the board of directors of each eligible private school shall vote for candidates representing the private schools in an election of the board, the purpose of which is to determine the board's candidate for the ((~~nonvoting~~)) member ((~~of~~)) representing private schools on the state board. Not later than the first day of October the superintendent of public instruction shall mail to each member of each common school district board of directors and to each chairperson of the board of directors of each private school, the proper ballot and voting instructions for his congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate.

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 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 256

[Substitute Senate Bill No. 6157]

SCHOOL DISTRICTS—SELF-STUDY PROCEDURE—STUDENT LEARNING OBJECTIVES

AN ACT Relating to student learning objectives; and amending RCW 28A.58.090 and 28A.58.085.

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 9, chapter 505, Laws of 1987 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~~)) include as part of the self-study procedures required under RCW 28A.58.085, the development of a program identifying student learning objectives for their district in all courses of study included in the school district programs: PROVIDED, That each school within the district, as a part of the self-study process, shall review the district learning objectives for each course of study and may identify additional or special learning objectives which are applicable to the particular school. ((~~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. 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.~~

~~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.~~)) In developing a program to identify student learning objectives, or in reviewing a student learning objectives program already established, districts are encouraged to consider the activities, developments, and results of the work of the temporary committee on the assessment and accountability of educational outcomes pursuant to the provisions of RCW 28A.100.010 through 28A.100.026.

Sec. 2. Section 2, chapter 349, Laws of 1985 and RCW 28A.58.085 are each amended to read as follows:

Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake

self-study procedures on a regular basis: PROVIDED, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW 28A.04.120((~~(4)~~)) (6), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. Whatever process is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational efforts.

Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age.

Emphasis throughout the process shall be placed upon:

(1) Achieving educational excellence and equity;

(2) Building stronger links with the community; and

(3) Reaching consensus upon educational expectations through community involvement and corresponding school management.

The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990-91 school year.

The state board of education shall develop rules and regulations governing procedural criteria. Such rules and regulations should be flexible so as to accommodate local goals and circumstances. Rules and regulations may allow for waiver of the self-study for economic reasons and may also allow for waiver of the initial self-study if a district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990-91 period.

The superintendent of public instruction shall provide training to assist districts in their self-studies.

Each district shall ((~~annually~~)) report every two years to the superintendent of public instruction on the scheduling and implementation of their self-study activities.

Passed the Senate March 10, 1988.
Passed the House March 10, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 257

[Substitute Senate Bill No. 6178]

WINE COMMISSION—VINIFERA GRAPE GROWERS' ASSESSMENT—HANDLER DEFINED

AN ACT Relating to the vinifera grape growers' assessment; amending RCW 15.88.020 and 66.24.215; and adding new sections to chapter 15.88 RCW.

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

NEW SECTION. Sec. 1. (1) The commission shall cause a list to be prepared of all Washington growers from any information available from the department, growers' association, or wine producers. This list shall contain the names and addresses of all persons who grow vinifera grapes for sale or use by wine producers within this state and the amount (by tonnage) of vinifera grapes produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up to date in accordance with evidence and information available to the commission on or before December 31st of each year. For all purposes of giving notice and holding referendums, the list on hand, corrected up to the day next preceding the date for issuing notices or ballots as the case may be, is, for purposes of this chapter, deemed to be the list of all growers entitled to notice or to assent or dissent or to vote.

(2) The commission shall develop a reporting system to document that the vinifera grape growers in this state are reporting quantities of vinifera grapes grown and subject to the assessment as provided in section 2 of this act.

NEW SECTION. Sec. 2. (1) Pursuant to approval by referendum in accordance with section 3 of this act, commencing on July 1, 1989, there shall be levied, and the commission shall collect, upon all vinifera grapes grown within this state an annual assessment of three dollars per ton of vinifera grapes harvested to be paid by the grower of the grapes.

(2) The commission shall recommend rules to the director prescribing the time, place, and method for payment and collection of this assessment. For such purpose, the commission may recommend that the director, by rule, require the wine producers or handlers within this state to collect the grower assessments from growers whose vinifera grapes they purchase or accept delivery and remit the assessments to the commission, and provide for collecting assessments from growers who ship directly out of state.

(3) After considering any recommendations made under subsection (2) of this section, the director shall adopt rules, in accordance with chapter 34.04 RCW, prescribing the time, place, and method for the payment and collection of the assessment levied under this section and approved under section 3 of this act.

NEW SECTION. Sec. 3. (1) For purposes of determining grower participation in the commission and assessment under 2 of this act, the director shall conduct a referendum among all vinifera grape growers within the state. The requirements of assent or approval of the referendum will be held to be complied with if: (a) At least fifty-one percent by numbers of growers replying in the referendum vote affirmatively or at least fifty-one percent by acreage of those growers replying in the referendum vote affirmatively; and

(b) thirty percent of all vinifera grape growers and thirty percent by acreage have been represented in the referendum to determine assent or approval of participation and assessment. The referendum shall be conducted on or before September 15, 1988.

(2) If the director determines that the requisite assent has been given, the director shall direct the commission to put into force the assessment in section 2 of this act.

(3) If the director determines that the requisite assent has not been given, the director shall direct the commission not to levy the assessment provided in section 2 of this act. If the requisite assent has not been given, the commission shall not continue to specifically foster the interests of vinifera grape growers.

NEW SECTION. Sec. 4. The commission shall deposit moneys collected under section 2 of this act in a separate account in the name of the commission in any bank that is a state depositary. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. None of the provisions of RCW 43.01.050 apply to this account or to the moneys received, collected, or expended as provided in sections 1 through 5 of this act.

NEW SECTION. Sec. 5. A due and payable assessment levied in such specified amount as determined by the commission under section 2 of this act constitutes a personal debt of every person so assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a person fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay any such due and payable assessment or other such sum, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable.

Sec. 6. Section 2, chapter 452, Laws of 1987 and RCW 15.88.020 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 Washington wine commission.

(2) "Director" means the director of agriculture or the director's duly appointed representative.

(3) "Department" means the department of agriculture.

(4) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(5) "Grower" means a person who has at least five acres in production of vinifera grapes.

(6) "Growers' association" means a nonprofit association of Washington producers of vinifera grapes, whether or not incorporated, which the director finds to comprise the interested persons affected by appointment of members of the commission or, if the director finds that no such association exists, a group of growers of vinifera grapes within the state identified by the director as fairly representing growers of vinifera grapes within the state.

(7) "Vinifera grapes" means the agricultural product commonly known as VITIS VINIFERA and those hybrid of VITIS VINIFERA which have predominantly the character of VITIS VINIFERA.

(8) "Producer" means any person or other entity which grows within the state vinifera grapes or any person or other entity licensed under Title 66 RCW to produce within the state wine made predominantly from vinifera grapes.

(9) "Wine producer" means any person or other entity licensed under Title 66 RCW to produce within the state wine from vinifera grapes.

(10) "Eastern Washington" means that portion of the state lying east of the Cascade mountain range.

(11) "Western Washington" means that portion of the state lying west of the Cascade mountain range.

(12) "Wine" for the purposes of this section shall be as defined in RCW 66.04.010.

(13) "Wine institute" means a nonprofit association of Washington wine producers, whether or not incorporated, which the director finds to comprise interested persons affected by appointment of members of the commission or, if the director finds that no such association exists, a group composed of all such producers identified as actively engaged in the production of wine within the state.

(14) "Handler" means any Washington winery, or processor, juicer, grape broker, agent, or person buying or receiving vinifera grapes to be passed on or exported either as grapes, juice, or wine.

Sec. 7. Section 13, chapter 452, Laws of 1987 and RCW 66.24.215 are each amended to read as follows:

(1) To provide for permanent funding of the wine commission after July 1, 1989, agricultural commodity assessments shall be levied by the board on wine producers and growers as follows:

(a) Beginning on July 1, 1989, the assessment on wine producers shall be two cents per gallon on sales of packaged Washington wines.

(b) Beginning on July 1, 1989, the assessment on growers((~~, on sales~~)) of Washington vinifera wine grapes((;)) shall be levied ((~~at a rate sufficient to raise an amount equal to the amount raised under subsection (1)(a) of~~

~~this section. The method of calculation and collection of the grower assessment shall be determined under legislation enacted during the 1988 session of the legislature~~)) as provided in section 2 of this act.

(c) After July 1, 1993, assessment rates under subsection (1)(a) of this section may be changed pursuant to a referendum conducted by the Washington wine commission and approved by a majority vote of wine producers. The weight of each producer's vote shall be equal to the percentage of that producer's share of Washington vinifera wine production in the prior year.

(d) After July 1, 1993, assessment amounts under subsection (1)(b) of this section may be changed pursuant to a referendum conducted by the Washington wine commission and approved by a majority vote of grape growers. The weight of each grower's vote shall be equal to the percentage of that grower's share of Washington vinifera grape sales in the prior year.

(2) Assessments collected under this section shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(3) Prior to July 1, 1996, a referendum shall be conducted to determine whether to continue the Washington wine commission as representing both wine producers and grape growers. The voting shall not be weighted. The wine producers shall vote whether to continue the commission's coverage of wineries and wine production. The grape producers shall vote whether to continue the commission's coverage of issues pertaining to grape growing. If a majority of both wine and grape producers favor the continuation of the commission, the assessments shall continue as provided in subsection (2) (b) and (d) of this section. If only one group of producers favors the continuation, the assessments shall only be levied on the group which favored the continuation.

NEW SECTION. Sec. 8. Sections 1 through 5 of this act are added to chapter 15.88 RCW.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 258

[Engrossed Substitute Senate Bill No. 6266]

AQUIFER PROTECTION DISTRICTS—SEWAGE SYSTEM AUTHORITY ENLARGED

AN ACT Relating to aquifer protection districts; and amending RCW 36.36.040.

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

Sec. 1. Section 4, chapter 425, Laws of 1985 and RCW 36.36.040 are each amended to read as follows:

Aquifer protection areas may impose fees to fund:

(1) The preparation of a comprehensive plan to protect, preserve, and rehabilitate subterranean water. This plan may be prepared as a portion of a county sewerage and/or water general plan pursuant to RCW 36.94.030;

(2) The construction of facilities for: (a) The removal of water-borne pollution; (b) water quality improvement; (c) sanitary sewage collection, disposal, and treatment; and (d) storm water or surface water drainage collection, disposal, and treatment; ((~~and~~))

(3) The proportionate reduction of special assessments imposed by a county, city, town, or special district in the aquifer protection area for any of the facilities described in subsection (2) of this section; and

(4) The costs of monitoring and inspecting on-site sewage disposal systems or community sewage disposal systems for compliance with applicable standards and rules, and for enforcing compliance with these applicable standards and rules in aquifer protection areas created after the effective date of this 1988 act.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 259

[Substitute Senate Bill No. 6631]

DENTAL CARE ASSISTANCE PLANS—CHOICE OF PROVIDERS

AN ACT Relating to employee dental care assistance plans; and adding a new section to chapter 49.64 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 49.64 RCW to read as follows:

(1) Unless the context clearly requires otherwise, in this section "dental care assistance plan" means any plan of dental insurance offered by an insurer as defined by chapter 48.01 RCW and any agreement for dental care benefits entered into or renewed after January 1, 1989, provided by a health care service contractor as defined by chapter 48.44 RCW.

(2) Each employer, public or private, that offers its employees a dental care assistance plan and each employee benefits fund that offers its members a dental care assistance plan limiting the provider of dental care to designated providers or group of providers, shall make available to and inform its employees or members of the option of enrolling in an alternative dental care assistance plan that permits the employees or members to obtain

dental care services from any licensed dental care provider of their choice. The portion of the premium paid by the employer for the limiting plan shall be comparable to, but in no case greater than, the portion of the premium paid by the employer for the other plan. If employees are members of a bona fide bargaining unit covered by a labor–management collective bargaining agreement, the selection of the options required by this section may be specified in the agreement. The provisions of this section are not mandatory if the employees are covered by Taft–Hartley health care trust, except that the labor–management trustees may contract with a dental care assistance plan if a feasibility study determines it is to the advantage of the members: PROVIDED, That this section shall only apply to employers with greater than twenty–five employees under coverage.

Passed the Senate February 12, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 260

[Senate Bill No. 6641]

BREMERTON AND EVERETT—ARMED FORCES SHIPBOARD, ON-BASE, AND MILITARY DEPENDENT POPULATION—QUARTERLY DETERMINATIONS FOR STATE REVENUE ALLOCATIONS

AN ACT Relating to population adjustments for naval personnel; and amending RCW 43.62.030.

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

Sec. 1. Section 43.62.030, chapter 8, Laws of 1965 as last amended by section 129, chapter 151, Laws of 1979 and RCW 43.62.030 are each amended to read as follows:

The office of financial management shall annually as of April 1st, determine the populations of all cities and towns of the state; and on or before July 1st of each year, shall file with the secretary of state a certificate showing its determination as to the populations of cities and towns of the state. A copy of such certificate shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and on and after January 1st next following the date when such certificate or certificates are filed, the population determination shown in such certificate or certificates shall be used as the basis for the allocation and payment of state funds, to cities and towns until the next January 1st following the filing of successive certificates by the agency: PROVIDED, That whenever territory is annexed to a city or town, the population of the annexed territory shall be added to the population of the annexing city or town upon the effective date of the annexation as specified in the relevant ordinance, and upon approval of the agency as provided in RCW 35.13.260, as now or

hereafter amended, a revised certificate reflecting the determination of the population as increased from such annexation shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for allocation and payment of state funds to such city or town until the next annual population determination becomes effective: PROVIDED FURTHER, That whenever any city or town becomes incorporated subsequent to the determination of such population, the populations of such cities and towns as shown in the records of incorporation filed with the secretary of state shall be used in determining the amount of allocation and payments, and the agency shall so notify the proper state officials or departments, and such cities and towns shall be entitled to participate in allocations thereafter made: PROVIDED FURTHER, That in case any incorporated city or town disincorporates subsequent to the filing of such certificate or certificates, the agency shall promptly notify the proper state officials or departments thereof, and such cities and towns shall cease to participate in allocations thereafter made, and all credit accrued to such incorporated city or town shall be distributed to the credit of the remaining cities and towns. The secretary of state shall promptly notify the agency of the incorporation of each new city and town and of the disincorporation of any cities or towns.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate due to an annexation is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Armed forces shipboard population, on-base naval group quarter population, and military dependents living in housing under United States navy jurisdiction, shall be determined quarterly by the office of financial management on the first days of January, April, July, and October. These counts shall be used to increase or decrease the armed forces component of the resident population determinations in the cities of Bremerton and Everett for the purpose of allocating state revenues according to this section. Counts on the first day of the quarterly periods commencing with January, April, July, and October shall be used to adjust the total population for the following quarter, in the same manner adjustments are made for population changes due to annexation as specified in RCW 35.13.260 and 35A.14.700.

Population determinations made under this section shall include only those persons who meet resident population criteria as defined by the federal bureau of the census.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 261

[Engrossed Substitute House Bill No. 46]

MARINE PATROL EXCISE TAX—INTERLOCAL AGREEMENTS

AN ACT Relating to the marine patrol excise tax; and amending RCW 82.49.070.

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

Sec. 1. Section 49, chapter 3, Laws of 1983 2nd ex. sess. as last amended by section 155, chapter 7, Laws of 1985 and RCW 82.49.070 are each amended to read as follows:

(1) Any county may impose a tax, by ordinance or resolution, upon the privilege of using a vessel taxable under RCW 82.49.010 which is moored or stored in the county, if the population of the unincorporated area of the county together with the population of the cities and towns which are parties to an interlocal agreement under chapter 39.34 RCW equal or exceed two-thirds of the total population of the county((~~: PROVIDED, That such agreement shall take into consideration any marine patrols provided as of June 30, 1983, and may~~)). The county shall provide compensation for those ((~~municipal corporations~~)) cities and towns in the county which are parties to the agreement and which provide marine patrol and/or boating safety services, including fire suppression and rescue services only as related to boating safety. All cities and towns providing marine patrol services shall be included within the interlocal agreement. The compensation so provided for such cities and towns shall be determined annually by April 1 of each year through the interlocal agreement required under this subsection. If no agreement is reached by April 1 of any year between the county and such cities and towns within the county, the county and each city or town providing marine patrol services within the county shall be considered to have entered into an agreement to submit the issue to arbitration pursuant to chapter 7.04 RCW, and the cities and towns and the county shall be entitled to the same rights and subject to the same duties as other parties who have agreed to submit to arbitration pursuant to chapter 7.04 RCW. The annual amount of the tax shall be up to fifty cents per foot of the vessel per calendar year, or part thereof.

(2) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in

which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year.

(3) The moneys collected under this section shall be distributed by the county monthly to the parties to the interlocal agreement, and other municipal corporations entitled to compensation, according to the terms of the agreement. Moneys collected under this section shall be used only for administration and enforcement of boating safety, search and rescue operations concerning boating, and boating patrols.

Passed the House February 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 262

[House Bill No. 1951]

HOSPITAL RATE REVIEW AND APPROVAL—EXEMPTIONS

AN ACT Relating to exemption from hospital rate review and approval; and adding a new section to chapter 70.39 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.39 RCW to read as follows:

(1) The commission shall exempt a hospital from the rate review and approval provisions of RCW 70.39.140 if:

(a) The hospital is located within fifteen miles of one or more hospitals located in a jurisdiction that is not subject to RCW 70.39.140; and

(b) The hospital or hospitals not subject to RCW 70.39.140 have the existing capacity to absorb twenty-five percent or more of the patients served by the hospital exempted under this section.

(2) The exemption provided by this section shall not affect the exempted hospital's responsibility to make on a timely basis all filings required by the commission pursuant to this chapter. In addition, an exempted hospital shall provide on a timely basis other pertinent data that may be requested from time to time by the commission.

(3) This section shall expire June 30, 1991.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 263

[Substitute Senate Bill No. 6486]
FIREARM RANGE COMMITTEE

AN ACT Relating to the Washington state firearm range committee facility; amending RCW 9.41.070; adding a new section to chapter 77.32 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature recognizes that interest has been steadily increasing in archery and archery safety; law enforcement training and qualifications; target practice and safety; skeet, trap, and shotgun sports including dog training; and black powder shooting sports and related historical heritage activities. Current facilities for sporting training and practice, which are often leased, are threatened with being closed due to the pressures of urban growth. Acquisition and development of an accessible state facility of international Olympic quality will promote international competition, target practice and safety training, and Olympic-type training events. Facilities throughout the state will promote tourism and provide added recreational opportunities and greater hunting safety for the citizens of this state.

NEW SECTION. Sec. 2. (1) The Washington state firearm range committee is created.

(2) The committee shall be composed of nine members appointed by the governor. The members shall be appointed as follows:

(a) One from a local government law enforcement agency;

(b) One from a state-wide law enforcement agency;

(c) One from a state-wide group that emphasizes or has a subdivision which emphasizes hunting and hunting safety;

(d) One from a state-wide group or division of a state-wide group that emphasizes target practice and target practice safety including but not limited to iron silhouette competition, small bore competition, and big bore competition;

(e) One representative of a skeet, trap, shotgun, or dog training sports group;

(f) One representative of a group involved with black powder shooting sports and related historical heritage events;

(g) One representative from an archery and archery safety group;

(h) One representative of the general public; and

(i) The director of the department of wildlife or the director's designee.

(3) There shall be four nonvoting ex officio members, one from each caucus of the senate and the house of representatives, approved by the lieutenant governor or the speaker of the house of representatives, as appropriate.

(4) The members of the committee shall select one of its members as chair. The committee shall meet at the call of the chair.

(5) Committee members shall not receive compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 3. The Washington state firearm range committee shall have the following powers and duties:

(1) Assess local, state, federal, and tribal law enforcement needs in cooperation with the association of sheriffs and police chiefs and the criminal justice training commission;

(2) Assess sporting needs for each user type including number of user days and financial contributions to the facilities and to the state's economy;

(3) Survey the existing public and private firearm facilities to assess excess demands;

(4) Review similar facilities in other states or countries including the Olympic firearm training center in Colorado Springs;

(5) Develop a proposed public and private use and cost ratio and a program for phased development and cost sharing for planning, construction, and operation;

(6) In cooperation with the department of natural resources and other state and local agencies, identify state lands that may be used for those facilities;

(7) Fully investigate private and state liability issues and prepare proposals for liability limitations, insurance needs, and costs;

(8) Analyze the appropriate state role in the facility planning, development, and use, including possible public and private contracting options; and

(9) Investigate and prepare recommendations on private and public funding sources including private donations and grants and county, city, and state funding.

NEW SECTION. Sec. 4. The committee shall make recommendations on the type of facility that would be appropriate for the various sites. The type of range may include but not be limited to pistol, rifle, shotgun, archery, or any combination thereof including a comprehensive multiple use facility.

NEW SECTION. Sec. 5. The wildlife department, the department of natural resources, the department of trade and economic development, the parks and recreation commission, the house of representatives, and the senate shall provide support staff for the committee.

NEW SECTION. Sec. 6. The committee may apply for and use private and public grant moneys to carry out its responsibilities under this act.

NEW SECTION. Sec. 7. The committee shall prepare a report and submit it to the legislature by January 1, 1990. The committee shall terminate February 1, 1990.

NEW SECTION. Sec. 8. The committee shall study the possibility of establishing a surcharge on hunting licenses and tags and shall include recommendations in the report required by section 7 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 77.32 RCW to read as follows:

The firearm range account is hereby created in the state wildlife fund. Moneys in the account shall be subject to legislative appropriation and shall be used for land, construction, development, and operation of firearm ranges and sporting training and practice facilities.

Sec. 10. Section 7, chapter 172, Laws of 1935 as last amended by section 3, chapter 428, Laws of 1985 and RCW 9.41.070 are each amended to read as follows:

(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. Such citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or

(b) Is under twenty-one years of age; or

(c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

(d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or

(e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor.

The license shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years. The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and description, fingerprints and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. The license application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be

prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing said license.

(2) The fee for the original issuance of a four-year license shall be twenty-three dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed; ((~~and~~))

(c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(d) Three dollars to the firearm range account in the wildlife fund.

(3) The fee for the renewal of such license shall be ((~~twelve~~)) fifteen dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

(a) Four dollars shall be paid to the state general fund; ((~~and~~))

(b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(c) Three dollars to the firearm range account in the wildlife fund.

(4) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (3) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state game fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(5) Notwithstanding the requirements of subsections (1) through (4) of this section, the chief of police of the municipality or the sheriff of the

county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 264

[Substitute House Bill No. 932]

RENTAL PAYMENTS TO LANDLORDS FROM PUBLIC ASSISTANCE

AN ACT Relating to rental payments to landlords from public assistance; and creating a new section.

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

NEW SECTION. Sec. 1. (1) Persons receiving public assistance, particularly families, frequently have great difficulty obtaining adequate housing. The department of social and health services is directed to conduct a pilot program designed to show whether the supply of housing for persons on public assistance would increase if the department made rental payments directly to landlords.

(2) The department shall solicit not fewer than three nor more than seven local governing bodies for participation in the pilot program. In implementing this program the department shall:

(a) Provide a written statement notifying the recipient of public assistance that the landlord may not legally require direct payment from the department;

(b) Upon written request of the recipient pay to the recipient's landlord as defined in RCW 59.18.030, through the local governing body, that portion that equals ninety percent of the monthly public assistance grant which is allocated for rent in the department's payment standard under RCW 74-.04.770 or ninety percent of the rent, whichever is less. No direct payment shall be made for rent of premises with respect to which the landlord is not in compliance with RCW 59.18.060;

(c) Promptly terminate such payments to the landlord upon the recipient's written request, provided that the recipient gives written notice of termination of direct payments to the landlord and the local governing body;

(d) Enter into an agreement with the local governing bodies selected to participate in the pilot program for the direct payment of rent to landlords.

(3) The local governing bodies selected to participate in the pilot program shall:

(a) Administer the pilot program using existing housing assistance providers, where appropriate;

(b) Charge the landlord a monthly fee of two dollars to cover the cost of administering each direct payment made under this section, which fee shall not be charged to the tenant;

(c) Charge the landlord a fee, up to fifty dollars, to cover the cost of inspecting and certifying that the housing unit is in compliance with the housing quality standards used for the United States department of housing and urban development, section eight existing housing program.

(4) The landlords participating in the pilot program shall mail to the secretary and the local governing body, by certified mail, a copy of any notice served upon the tenant under RCW 59.12.030 or 59.18.200 which terminates the tenancy. The notice, when mailed to the secretary and the local governing body, shall constitute the landlord's request that the secretary and local governing body cease making direct payments of rent to the landlord.

(5) No recipient of public assistance shall be liable to the department of social and health services for any amount incorrectly paid to a landlord under this section. The department shall recover such overpayment from the landlord under RCW 74.04.700.

(6) The department of social and health services shall adopt rules under chapter 34.04 RCW regarding the pilot program.

(7) The secretary may include in the department's annual report to the governor and the legislature a summary of the progress and status of the pilot program. The summary shall include but need not be limited to the results of the individual projects selected, the number of persons served, and recommendations for improving the program.

(8) The secretary shall immediately take such steps as are necessary to ensure that this section is implemented on its effective date. This section shall take effect July 1, 1988.

(9) This section shall terminate June 30, 1991, unless extended by law for an additional fixed period of time.

Passed the House March 5, 1988.
Passed the Senate March 1, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 265

[Senate Bill No. 6480]

OBSTRUCTING THE TAKING OF FISH OR WILDLIFE

AN ACT Relating to obstructing the taking of fish or wildlife; amending RCW 9A.46-.060; reenacting and amending RCW 77.21.010; adding new sections to chapter 77.16 RCW; providing an effective date; and prescribing penalties.

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

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

(1) A person commits the crime of obstructing the taking of fish or wildlife if the person:

(a) Harasses, drives, or disturbs fish or wildlife with the intent of disrupting lawful pursuit or taking thereof; or

(b) Harasses, interferes with, or intimidates an individual engaged in the lawful taking of fish or wildlife or lawful predator control.

(2) Violation of this section is a gross misdemeanor under RCW 77.21.010.

(3) It is a defense to any prosecution under subsection (1) of this section, if the person charged:

(a) Interferes with any person engaged in hunting outside legally established hunting seasons;

(b) Is preventing or attempting to prevent the injury or killing of a protected wildlife species, as defined by this title;

(c) Is preventing or attempting to prevent unauthorized trespass on private property; or

(d) Is defending oneself or another person from bodily harm or property damage by a person attempting to prevent hunting in a legally established hunting season.

NEW SECTION. Sec. 2. A new section is added to chapter 77.16 RCW to read as follows:

Any person who is damaged by any act prohibited in section 1 of this act may bring a civil action to enjoin further violations, and recover damages sustained, including a reasonable attorney's fee. The trial court may increase the award of damages to an amount not to exceed three times the damages sustained. A party seeking civil damages under this section may recover upon proof of a violation of the provisions of section 1 of this act by a preponderance of the evidence. The state of Washington may bring a civil action to enjoin violations of section 1 of this act.

Sec. 3. Section 77.16.240, chapter 36, Laws of 1955 as last amended by section 2, chapter 372, Laws of 1987, by section 19, chapter 380, Laws of 1987, and by section 69, chapter 506, Laws of 1987 and RCW 77.21.010 are each reenacted and amended to read as follows:

(1) A person violating RCW 77.16.040, 77.16.050, 77.16.060, 77.16-.080, 77.16.210, 77.16.220, 77.16.310, 77.16.320, or 77.32.211, or committing a violation of RCW 77.16.020 or 77.16.120 involving 77.16.210, 77.16.220, 77.16.310, 77.16.320, section 1 of this 1988 act, or 77.32.211, or committing a violation of RCW 77.16.020 or 77.16.120 involving big game or an endangered species is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year or by both the fine and imprisonment. Each subsequent violation within a five-year period of RCW 77.16.040, 77.16.050, or 77.16.060, or of RCW 77.16.020 or 77.16.120 involving big game or an endangered species, as defined by the commission under the authority of RCW 77.04.090, shall be prosecuted and punished as a class C felony as defined in RCW 9A.20.020. In connection with each such felony prosecution, the director shall provide the court with an inventory of all articles or devices seized under this title in connection with the violation. Inventoried articles or devices shall be disposed of pursuant to RCW 77.21.040.

(2) A person violating or failing to comply with this title or rules adopted pursuant to this title for which no penalty is otherwise provided is guilty of a misdemeanor and shall be punished for each offense by a fine of five hundred dollars or by imprisonment for not more than ninety days in the county jail or by both the fine and imprisonment. The commission may provide, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 7.84 RCW.

(3) A person placing traps on private property without permission of the owner, lessee, or tenant where the land is improved and apparently used, or where the land is fenced or enclosed in a manner designed to exclude intruders or to indicate a property boundary line, or where notice is given by posting in a conspicuous manner, is guilty of the misdemeanor of trespass as defined and established in RCW 9A.52.010 and 9A.52.080 and shall be punished for each offense by a fine of not less than two hundred fifty dollars.

(4) Persons convicted of a violation shall pay the costs of prosecution and the penalty assessment in addition to the fine or imprisonment.

(5) The unlawful killing, taking, or possession of each wildlife member constitutes a separate offense.

(6) District courts have jurisdiction concurrent with the superior courts of misdemeanors and gross misdemeanors committed in violation of this title or rules adopted pursuant to this title and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this title.

Sec. 4. Section 6, chapter 288, Laws of 1985 and RCW 9A.46.060 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

(1) Harassment (RCW 9A.46.020);

(2) Malicious harassment (RCW 9A.36.080);

(3) Telephone harassment (RCW 9.61.230);

(4) Assault in the first degree (((~~RCW 9A.36.010~~))) (RCW 9A.36.011);

(5) Assault in the second degree (((~~RCW 9A.36.020~~))) (RCW 9A.36.021);

(6) Simple assault (((~~RCW 9A.36.040~~))) (RCW 9A.36.041);

(7) Reckless endangerment (RCW 9A.36.050);

(8) Extortion in the first degree (RCW 9A.56.120);

(9) Extortion in the second degree (RCW 9A.56.130);

(10) Coercion (RCW 9A.36.070);

(11) Burglary in the first degree (RCW 9A.52.020);

(12) Burglary in the second degree (RCW 9A.52.030);

(13) Criminal trespass in the first degree (RCW 9A.52.070);

(14) Criminal trespass in the second degree (RCW 9A.52.080);

(15) Malicious mischief in the first degree (RCW 9A.48.070);

(16) Malicious mischief in the second degree (RCW 9A.48.080);

(17) Malicious mischief in the third degree (RCW 9A.48.090);

(18) Kidnapping in the first degree (RCW 9A.40.020);

(19) Kidnapping in the second degree (RCW 9A.40.030);

(20) Unlawful imprisonment (RCW 9A.40.040);

(21) Rape in the first degree (RCW 9A.44.040);

(22) Rape in the second degree (RCW 9A.44.050);

(23) Rape in the third degree (RCW 9A.44.060);

(24) Indecent liberties (RCW 9A.44.100);

(25) Statutory rape in the first degree (RCW 9A.44.070);

(26) Statutory rape in the second degree (RCW 9A.44.080); ((~~and~~))

(27) Statutory rape in the third degree (RCW 9A.44.090); and

(28) Obstructing the taking of fish or wildlife (section 1 of this 1988 act).

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

NEW SECTION. Sec. 5. This act shall take effect July 1, 1988.

Passed the Senate March 8, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 4, Senate Bill No. 6480 entitled:

"AN ACT Relating to obstructing the taking of fish or wildlife."

This measure creates the crime of obstructing the taking of wildlife and provides penalties. In addition, section 4 includes this new crime under the current provisions of chapter 9A.46 RCW.

Chapter 9A.46 RCW is aimed at making unlawful the invasion of a person's privacy through repeated acts and threats intended to harass that individual. The statute also allows for enjoining such activities. Because section 2 of Senate Bill No. 6480 also allows for enjoining violations, reference to chapter 9A.46 RCW is redundant and clouds the purposes of that act.

With the exception of section 4, Senate Bill No. 6480 is approved."

CHAPTER 266

[Substitute House Bill No. 752]

ASSAULT IN THE SECOND DEGREE—REVISED

AN ACT Relating to assault in the second degree; amending RCW 9A.36.021; adding a new section to chapter 9A.36 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

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

***NEW SECTION.** Sec. 1. A new section is added to chapter 9A.36 RCW to read as follows:*

As used in this chapter, assault is:

(1) An attempt with unlawful force to inflict bodily injury, or a threatening act which a reasonable person would believe could lead to bodily injury, along with the apparent present ability to cause the injury, and where apprehension of injury is reasonably created; or

(2) The infliction of bodily injury by unlawful physical force or contact without the consent of the victim, including force or contact by any instrument or substance under the control of the person inflicting the bodily injury.

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

Sec. 2. Section 5, chapter 257, Laws of 1986 as amended by section 2, chapter 324, Laws of 1987 and RCW 9A.36.021 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture.

(2) Assault in the second degree is a class B felony.

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, 1988.

Passed the House March 7, 1988.
Passed the Senate March 3, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 752 entitled:

"AN ACT Relating to assault in the second degree."

This measure attempts to create a statutory definition of assault and adds a standard of liability for assault in the second degree.

There has been widespread agreement, since the enactment of the sentencing reform act, that assault statutes have needed redefinition. In 1986 and 1987, the Legislature enacted measures which would clarify sentencing directions for these crimes, and allowed review by delaying the effective dates of those acts until July of this year. Substitute House Bill No. 752 is a further attempt at clarifying these statutes.

I believe this measure fails to achieve the ends sought when the assault statutes were originally addressed. The definition contained in section 1 is unclear and eliminates a standard of assault that has been accepted throughout the criminal justice system. That is, mere contact, without the consent of the victim, can be construed as an assault irrespective of any bodily harm that may result. When the Sentencing Guidelines Commission convened a meeting of interested parties to address the problems evident in the assault statutes, all members agreed that an indepth, long-term review of the assault definition was needed. That discussion has not taken place and I urge all involved members to again pursue that course.

Section 2 of this act adds an element of culpability to the harm caused by an assault. Historically, an offender's intention has been an element in defining the seriousness of a criminal act. Our criminal justice system punishes persons who realize the consequences of their unlawful acts to a greater degree than those who act in ignorance. On the other hand, we should prohibit persons from preying on defenseless victims and then hiding their crimes behind a contrived veil of ignorance.

The standard of strict liability that will take effect on July of this year would provide greater penalties for those individuals who assault and harm children but claim that the resulting injury was *unforeseen. At the same time, there is a possibility that unintended actions will be prosecuted as second degree assaults where a truly regrettable and unforeseen circumstance results. The Legislature has decided that a "recklessness" standard of liability will offer protection against such unwarranted charges while still allowing for successful prosecution of truly assaultive persons.

I do not agree with this view, and continue to believe that we must do more to protect children who suffer abuse at the hands of adults. Although I am signing section 2 into law, I strongly urge the Legislature to consider measures next year that would provide for stricter liability in the case of children, or provide other charges under which these abusers can be appropriately prosecuted in cases where substantial bodily injury results. I believe the Sentencing Guidelines Commission can be the starting point for this discussion in the interim.

With the exception of section 1, Substitute House Bill No. 752 is approved."

*Reviser's note: In the pamphlet edition of the Session Laws, this read "foreseen." The change is a result of a corrected veto message transmitted by the Governor to the Code Reviser on April 26, 1988.

CHAPTER 267

[Engrossed Substitute House Bill No. 1530]
NURSING ASSISTANTS

AN ACT Relating to nursing assistants; amending RCW 18.52A.020 and 18.52A.030; reenacting and amending RCW 18.120.020 and 18.130.040; adding a new chapter to Title 18 RCW; creating a new section; and making an appropriation.

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

NEW SECTION. Sec. 1. LEGISLATIVE INTENT. The legislature takes special note of the contributions made by nursing assistants in nursing homes whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of long-term care patients. The legislature also recognizes the growing shortage of nurses in long-term care as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

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

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

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

(1) "Department" means the department of licensing.

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

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

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

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

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

(7) "Certification program" means an educational program approved by the superintendent of public instruction or the state board for community college education, and offered by or under the administration of an accredited educational institution, either at a school site or a nursing home site. A

program shall be offered at or near a nursing home site only if the nursing home can provide adequate classroom and clinical facilities.

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

(9) "Nursing home" means a facility licensed under chapter 18.51 RCW.

NEW SECTION. Sec. 3. SCOPE OF PRACTICE. (1) A nursing assistant—registered may assist in the care of patients under the direction and supervision of a licensed (registered) nurse or licensed practical nurse, provided that a nursing home shall not assign an assistant to provide resident care until the assistant has demonstrated skill necessary to perform assigned duties and responsibilities competently. Nothing in this chapter shall be construed as conferring on a nursing assistant the authority to administer medication or to practice as a licensed (registered) nurse or licensed practical nurse.

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

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

NEW SECTION. Sec. 4. REGISTRATION AND CERTIFICATION. (1) No person may practice or represent himself or herself as a nursing assistant——registered by use of any title or description without being registered by the department pursuant to this chapter, unless exempt under section 5 of this act.

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

NEW SECTION. Sec. 5. EXEMPTIONS. Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the director, and whose performance of services is

pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor.

NEW SECTION. Sec. 6. POWERS OF DIRECTOR. In addition to any other authority provided by law, the director has the authority to:

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

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

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

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

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

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

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

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

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

*NEW SECTION. Sec. 7. POWERS OF STATE BOARD OF NURSING. In addition to any other authority provided by law, the state board of nursing has the authority to:

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

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

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

(4) Determine which states have credentialing requirements equivalent to those of this state, and issue certificates to individuals credentialed in those states by endorsement without examinations;

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

(6) Adopt rules implementing a continuing competency program.

*Sec. 7 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. RECORD OF PROCEEDINGS. The director shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for credentialing under this chapter and the results of each application.

NEW SECTION. Sec. 9. ADVISORY COMMITTEES. (1) The director has the authority to appoint an advisory committee to the state board of nursing and the department to further the purposes of this chapter. The committee shall be composed of nine members, two members initially appointed for a term of one year, three for a term of two years, and four for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. The committee shall consist of: A nursing assistant certified under this chapter, a director of nursing in a nursing home, a representative of the office of the superintendent of public instruction, a representative of the state board of community college education, a representative of the department of social and health services responsible for aging and adult services in nursing homes, a resident of a nursing home, a representative of a local long-term care ombudsman program, and one member who is a licensed (registered) nurse and one member who is a licensed practical nurse.

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

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

*NEW SECTION. Sec. 10. CREDENTIALING REQUIREMENTS. (1) The director shall issue a registration to any applicant who submits, on forms provided by the director, the applicant's name, address, occupational title, name and location of business, and other information as determined by the director, including information necessary to determine whether there are grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

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

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

(b) Successful completion of an approved examination; and

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

(3) The board shall establish by rule what constitutes adequate proof of meeting the criteria.

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

*Sec. 10 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 11. APPROVAL OF EDUCATIONAL PROGRAMS. The board, in consultation with the board of practical nursing, shall establish by rule the standards and procedures for approval of educational programs and alternative training. The director may use or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The board shall establish by rule the standards and procedures for revocation of approval of education programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The director may establish a fee for educational program evaluations.

NEW SECTION. Sec. 12. STUDY BY THE BOARD. The board, in consultation with the board of practical nursing, shall report to the legislature by January 1, 1989, with proposed standards and procedures required for in section 11 of this act as well as any additional recommendations relating to implementation of this act.

NEW SECTION. Sec. 13. EXAMINATIONS. (1) The date and location of examinations shall be established by the director. Applicants who have been found by the director to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The director shall establish by rule the examination application deadline.

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

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

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the director under RCW 43-.24.086 for each subsequent examination. Upon failing four examinations, the director may invalidate the original application and require such remedial education before the person may take future examinations.

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

NEW SECTION. Sec. 14. APPLICATIONS. Applications for certification shall be submitted on forms provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the director under RCW 43.24.086. The fee shall accompany the application.

NEW SECTION. Sec. 15. WAIVER OF EXAMINATION FOR INITIAL APPLICATIONS. The director shall waive the examination and certify a person authorized to practice within the state of Washington if the board determines that the person meets commonly accepted standards of education and experience for the profession. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice on January 1, 1990.

NEW SECTION. Sec. 16. ENDORSEMENT. An applicant holding a credential in another state may be certified by endorsement to practice in this state without examination if the director determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

NEW SECTION. Sec. 17. RENEWALS. The director shall establish by rule the procedural requirements and fees for renewal of a registration or certificate. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the board by taking continuing education courses, or meeting other standards determined by the board.

NEW SECTION. Sec. 18. SECTION CAPTIONS. Section captions as used in this chapter do not constitute any part of the law.

Sec. 19. Section 2, chapter 114, Laws of 1979 as amended by section 5, chapter 284, Laws of 1985 and RCW 18.52A.020 are each amended to read as follows:

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

(1) "Nursing assistant" means a person registered or certified under chapter 18.— RCW (sections 1 through 11 and 13 through 18 of this 1988 act) who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the care of patients in a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70-.41 RCW if the wing is certified to provide nursing home care under Title

XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

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

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

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

Sec. 20. Section 3, chapter 114, Laws of 1979 as last amended by section 7, chapter 476, Laws of 1987 and RCW 18.52A.030 are each amended to read as follows:

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

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

(3) ((~~All nursing assistants who, on June 7, 1979, are employed in nursing homes shall be given the opportunity to obtain a certificate of completion by passing a written and/or practical examination developed by the board and conducted by a school or nursing home, or by providing evidence of sufficient practical experience. The board shall adopt rules specifying the amount of practical experience to be required for the issuance of a certificate under this section.~~

~~(4)~~)) Compliance with this section shall be a condition of licensure of nursing homes under chapter 18.51 RCW. Beginning January 1, 1986, compliance with this section shall be a condition of licensure of hospitals licensed under chapter 70.41 RCW with a wing certified to provide nursing home care under Title XVIII or Title XIX of the social security act. Any health provider of skilled nursing facility care or intermediate care facility care shall meet the requirements of this section.

Sec. 21. Section 14, chapter 412, Laws of 1987, section 16, chapter 415, Laws of 1987, section 17, chapter 447, Laws of 1987, section 21, chapter 512, Laws of 1987 and RCW 18.120.020 are each reenacted and amended to read as follows:

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

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

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

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

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; ((~~and~~)) radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.— RCW (sections 1 through 11 and 13 through 18 of this 1988 act).

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

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

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

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

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

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

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

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

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

Sec. 22. Section 1, chapter 150, Laws of 1987, section 15, chapter 412, Laws of 1987, section 17, chapter 415, Laws of 1987, section 18, chapter 447, Laws of 1987, section 22, chapter 512, Laws of 1987 and RCW 18-.130.040 are each reenacted and 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) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists certified under chapter 18.06 RCW;

(viii) Radiologic technologists certified under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW; ((~~and~~))

(x) Persons registered or certified under chapter 18.19 RCW; and

(xi) Nursing assistants registered or certified under chapter 18.— RCW (sections 1 through 11 and 13 through 18 of this 1988 act).

(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) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(viii) 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) 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) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The board of practical nursing as established in chapter 18.78 RCW;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The board of nursing as established in chapter 18.88 RCW; and

(xv) 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.

NEW SECTION. Sec. 23. Sections 1 through 11 and 13 through 18 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 24. The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the health professions account to the department of licensing for the purposes of this act.

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.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 7(4) and 10(3), Engrossed Substitute House Bill No. 1530 entitled:

"AN ACT Relating to nursing assistants."

Section 7(4) and section 16 both give authority to determine which states have credentialing requirements equivalent to those in this state, and to issue certificates, by endorsement without examination, to those individuals credentialed in those states. Section 7(4) gives this authority to the Board of Nursing and section 16 gives this authority to the Department of Licensing.

Section 10(3) and section 14 both give authority to determine what constitutes adequate proof of meeting the criteria for certification. Section 10(3) gives this authority to the Board of Nursing and section 14 gives this authority to the Department of Licensing.

Giving similar authority to two separate regulatory entities will result in confusion. Since these functions are primarily administrative in nature and the department has all other administrative functions, I am vetoing the sections which give these authorities to the Board of Nursing.

With the exception of section 7(4) and 10(3), Engrossed Substitute House Bill No. 1530 is approved."

CHAPTER 268

[Second Substitute Senate Bill No. 5720]

SCHOOLS—COOPERATIVE PARTNERSHIPS AMONG SMALL SCHOOL DISTRICTS

AN ACT Relating to cooperative programs and services between or among school districts; amending RCW 28A.58.225; adding new sections to Title 28A RCW; creating a new section; repealing RCW 28A.03.448, 28A.03.449, and 28A.03.450; and repealing section 4, chapter 58, Laws of 1985 (uncodified).

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

NEW SECTION. Sec. 1. The legislature finds that partnerships among school districts can: Increase curriculum offerings for students, encourage creative educational programming and staffing, and result in the cost-effective delivery of educational programs. It is the intent of the legislature to establish a program to facilitate and encourage such partnerships among small school districts.

NEW SECTION. Sec. 2. Eligible school districts as defined under section 3 of this act are encouraged to establish cooperative projects with a primary purpose to increase curriculum programs and opportunities among the participating districts, by expanding the opportunity for students in the participating districts to take vocational and academic courses as may be generally more available in larger school districts, and to enhance student learning.

NEW SECTION. Sec. 3. School districts eligible for funding as a small high school district pursuant to the state operating appropriations act shall be eligible to participate in a cooperative project: PROVIDED, That the superintendent of public instruction may adopt rules permitting second class school districts that are not eligible for funding as a small high school district in the state operating appropriations act to participate in a cooperative project.

Two or more school districts may participate in a cooperative project pursuant to sections 3 through 5 and 7 through 9 of this act.

NEW SECTION. Sec. 4. (1) Eligible school districts desiring to form a cooperative project pursuant to sections 3 through 5 and 7 through 9 of

this act shall submit to the superintendent of public instruction an application for review as a cooperative project. The application shall include, but not be limited to, the following information:

(a) A description of the cooperative project, including the programs, services, and administrative activities that will be operated jointly;

(b) The improvements in curriculum offerings and educational opportunities expected to result from the establishment of the proposed cooperative project;

(c) A list of any statutory requirements or administrative rules which are considered financial disincentives to the establishment of cooperative projects and which would impede the operation of the proposed cooperative project; and the financial impact to the school districts and the state expected to result by the granting of a waiver from such statutory requirements or administrative rules;

(d) An assessment of community support for the proposed cooperative project, which assessment shall include each community affected by the proposed cooperative project; and

(e) A plan for evaluating the educational and cost-effectiveness of the proposed cooperative project, including curriculum offerings and staffing patterns.

(2) The superintendent of public instruction shall review the application before the applicant school districts may commence the proposed cooperative project.

In reviewing applications, the superintendent shall be limited to: (a) The granting of waivers from statutory requirements, for which the superintendent of public instruction has the express power to implement pursuant to the adoption of rules, or administrative rules that need to be waived in order for the proposed cooperative project to be implemented: PROVIDED, That no statutory requirement or administrative rule dealing with health, safety, or civil rights may be waived; and (b) ensuring the technical accuracy of the application.

Any waiver granted by the superintendent of public instruction shall be reviewed and may be renewed by the superintendent every five years subject to the participating districts submitting a new application pursuant to this section.

(3) If additional eligible school districts wish to participate in an existing cooperative project the cooperative project as a whole shall reapply for review by the superintendent of public instruction.

NEW SECTION. Sec. 5. (1) School districts participating in a cooperative project pursuant to section 4 of this act may adopt identical salary schedules following compliance with chapter 41.59 RCW: PROVIDED, That if the districts participating in a cooperative project adopt identical salary schedules, the participating districts shall be considered a single

school district for purposes of establishing compliance with the salary limitations of RCW 28A.58.0951(3) but not for the purposes of allocation of state funds.

(2) For purposes of computing fringe benefit contributions for purposes of establishing compliance with RCW 28A.58.0951(3)(b), the districts participating in a cooperative project pursuant to section 4 of this act may use the greater of: (a) The highest amount provided in the 1986–87 school year by a district participating in the cooperative project; or (b) the amount authorized for such purposes in the state operating appropriations act in effect at the time.

Sec. 6. Section 28A.58.225, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 140, Laws of 1979 ex. sess. and RCW 28A-.58.225 are each amended to read as follows:

(1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education: PROVIDED, That notwithstanding any other provision of law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to chapter 28A.41 RCW shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under section 4 of this 1988 act which exceeds two years in duration.

NEW SECTION. Sec. 7. (1) School districts participating in a cooperative project established under section 4 of this act shall submit a report to the superintendent of public instruction by September 1 of the third year of operation of the cooperative project and by September 1 of the fifth year of the cooperative project.

(2) (a) The third year report shall indicate the progress of the cooperative project in meeting the objectives set forth in the application pursuant to section 4 of this act.

(b) The fifth year report shall evaluate the success of the cooperative project in meeting the objectives set forth in the application pursuant to section 4 of this act and may include an application for renewal of the cooperative project.

(3) The superintendent of public instruction shall submit a report to the legislature by January 1 of every third odd–numbered year beginning January 1, 1989. The report shall include information about the number of

school districts participating in cooperative projects and findings and recommendations about the educational effectiveness and cost-effectiveness of the cooperative projects. The report shall also include any findings and recommendations as determined by the superintendent regarding the relationship of the small high school factor in the state operating appropriations act to cooperative projects established under sections 2 through 5 and 7 through 9 of this act.

NEW SECTION. Sec. 8. (1) The superintendent of public instruction shall adopt rules as necessary under chapter 34.04 RCW to carry out the provisions of sections 2 through 5 and 7 through 9 of this act.

(2) When the joint operation of programs or services includes the teaching of all or substantially all of the curriculum for a particular grade or grades in only one local school district, the rules shall provide that the affected students are attending school in the district in which they reside for the purposes of RCW 28A.41.130 and 28A.41.140 and chapter 28A.44 RCW.

NEW SECTION. Sec. 9. (1) The superintendent of public instruction may allocate state funds, as may be appropriated, to provide technical assistance to eligible school districts interested in developing and implementing a cooperative project.

(2) The superintendent of public instruction may contract with other agencies to provide some or all of the technical assistance under subsection (1) of this section.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 58, Laws of 1985 and RCW 28A.03.448;

(2) Section 2, chapter 58, Laws of 1985 and RCW 28A.03.449;

(3) Section 3, chapter 58, Laws of 1985 and RCW 28A.03.450; and

(4) Section 4, chapter 58, Laws of 1985 (uncodified).

NEW SECTION. Sec. 11. Sections 2 through 5 and 7 through 9 of this act are each added to Title 28A RCW.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 9, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 269

[Substitute Senate Bill No. 6466]

COUNTY PUBLIC WORKS DEPARTMENT EMPLOYEES—RETIREMENT, SICK LEAVE CASHOUT VALUATION

AN ACT Relating to the retirement benefit to be granted to certain county public works department employees; and creating new sections.

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

NEW SECTION. Sec. 1. An employee of the public works department of a class A county who retired on February 1, 1985, may have an additional sixty days after the effective date of this act to appeal a final decision of the director of retirement systems that was rendered on April 17, 1986, notwithstanding RCW 41.40.412.

NEW SECTION. Sec. 2. This act shall not be codified.

Passed the Senate March 7, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 270

[Substitute Senate Bill No. 6569]

CONSTRUCTION LIENS—INFORMATIONAL MATERIAL

AN ACT Relating to construction lien information; adding new sections to chapter 60.04 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. The department of labor and industries shall prepare a master document that provides informational material about construction lien laws and available safeguards against real property lien claims. The material shall include methods of protection against lien claims, including obtaining lien release documents, performance bonds, joint payee checks, the opportunity to require contractor disclosure of all potential lien claimants as a condition of payment, and lender supervision under RCW 60.04.200 and 60.04.210. The material shall also include sources of further information, including the department of labor and industries and the office of the attorney general.

NEW SECTION. Sec. 2. (1) Every real property lender shall provide a copy of the informational material described in section 1 of this act to all persons obtaining loans, the proceeds of which are to be used for residential construction or residential repair or remodeling.

(2) Every contractor shall provide a copy of the informational material described in section 1 of this act to customers required to receive contractor disclosure notice under RCW 18.27.114.

(3) No cause of action may lie against the state, a real property lender, or a contractor arising from the provisions of sections 1 and 2 of this act.

(4) For the purpose of this section, "real property lender" means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, partnership, or individual that makes loans secured by real property in this state.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are each added to chapter 60.04 RCW.

NEW SECTION. Sec. 4. This act shall take effect July 1, 1989.

Passed the Senate March 7, 1988.
Passed the House March 5, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 271

[Substitute House Bill No. 1592]

ASBESTOS—WORKERS' COMPENSATION—ASBESTOS PROJECTS

AN ACT Relating to industrial insurance benefits for occupational diseases; amending RCW 51.12.100, 51.32.180, 49.26.100, 49.26.110, 49.26.120, and 49.26.130; adding new sections to chapter 49.26 RCW; adding a new section to chapter 51.12 RCW; creating a new section; prescribing penalties; making an appropriation; providing effective dates; 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 51.12 RCW to read as follows:

(1) The department shall furnish the benefits provided under this title to any worker or beneficiary who may have a right or claim for benefits under the maritime laws of the United States resulting from an asbestos-related disease if (a) there are objective clinical findings to substantiate that the worker has an asbestos-related claim for occupational disease and (b) the worker's employment history has a prima facie indicia of injurious exposure to asbestos fibers while employed in the state of Washington in employment covered under this title. The department shall render a decision as to the liable insurer and shall continue to pay benefits until the liable insurer initiates payments or benefits are otherwise properly terminated under this title.

(2) The benefits authorized under subsection (1) of this section shall be paid from the medical aid fund, with the self-insurers and the state fund each paying a pro rata share, based on number of worker hours, of the costs necessary to fund the payments. For the purposes of this subsection only,

the employees of self-insured employers shall pay an amount equal to one-half of the share charged to the self-insured employer.

(3) If the department determines that the benefits paid under subsection (1) of this section are owed to the worker or beneficiary by a self-insurer or the state fund, then the self-insurer or state fund shall reimburse the medical aid fund for all benefits paid and costs incurred by the fund.

(4) If the department determines that the benefits paid under subsection (1) of this section are owed to the worker or beneficiary by a federal program other than the federal social security, old age survivors, and disability insurance act, 42 U.S.C. or an insurer under the maritime laws of the United States:

(a) The department shall pursue the federal program insurer on behalf of the worker or beneficiary to recover from the federal program insurer the benefits due the worker or beneficiary and on its own behalf to recover the benefits previously paid to the worker or beneficiary and costs incurred;

(b) For the purpose of pursuing recovery under this subsection, the department shall be subrogated to all of the rights of the worker or beneficiary receiving compensation under subsection (1) of this section; and

(c) The department shall not pursue the worker or beneficiary for the recovery of benefits paid under subsection (1) of this section unless the worker or beneficiary receives recovery from the federal program insurer, in addition to receiving benefits authorized under this section. The director may exercise his or her discretion to waive, in whole or in part, the recovery of any such benefits where the recovery would be against equity and good conscience.

(5) The provisions of subsection (1) of this section shall not apply if the worker or beneficiary refuses, for whatever reason, to assist the department in making a proper determination of coverage. If a worker or beneficiary refuses to cooperate with the department, self-insurer, or federal program insurer by failing to provide information that, in the opinion of the department, is relevant in determining the liable insurer, or if a worker refuses to submit to medical examination, or obstructs or fails to cooperate with the examination, the department shall reject the application for benefits. No information obtained under this section is subject to release by subpoena or other legal process.

(6) The amount of any third party recovery by the worker or beneficiary shall be subject to a lien by the department to the full extent that the medical aid fund has not been otherwise reimbursed by another insurer. Reimbursement shall be made immediately to the medical aid fund upon recovery from the third party suit. If the department determines that the benefits paid under subsection (1) of this section are owed to the worker or beneficiary by a federal program insurer, the department shall not participate in the costs or attorneys' fees incurred in bringing the third party suit.

(7) This section shall expire July 1, 1993.

Sec. 2. Section 51.12.100, chapter 23, Laws of 1961 as last amended by section 21, chapter 350, Laws of 1977 ex. sess. and RCW 51.12.100 are each amended to read as follows:

(1) The provisions of this title shall not apply to a master or member of a crew of any vessel, or to employers and workers for whom a right or obligation exists under the maritime laws for personal injuries or death of such workers.

(2) If an accurate segregation of payrolls of workers for whom such a right or obligation exists under the maritime laws cannot be made by the employer, the director is hereby authorized and directed to fix from time to time a basis for the approximate segregation of the payrolls of employees to cover the part of their work for which no right or obligation exists under the maritime laws for injuries or death occurring in such work, and the employer, if not a self-insurer, shall pay premiums on that basis for the time such workers are engaged in their work.

(3) Where two or more employers are simultaneously engaged in a common enterprise at one and the same site or place in maritime occupations under circumstances in which no right or obligation exists under the maritime laws for personal injuries or death of such workers, such site or place shall be deemed for the purposes of this title to be the common plant of such employers.

(4) In the event payments are made under this title prior to the final determination under the maritime laws, such benefits shall be repaid by the worker or beneficiary if recovery is subsequently made under the maritime laws.

Sec. 3. Section 51.32.180, chapter 23, Laws of 1961 as last amended by section 53, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.180 are each amended to read as follows:

Every worker who suffers disability from an occupational disease in the course of employment under the mandatory or elective adoption provisions of this title, or his or her family and dependents in case of death of the worker from such disease or infection, shall receive the same compensation benefits and medical, surgical and hospital care and treatment as would be paid and provided for a worker injured or killed in employment under this title(: PROVIDED, HOWEVER, That)) except as follows: (1) This section and RCW 51.16.040 shall not apply where the last exposure to the hazards of the disease or infection occurred prior to January 1, 1937; and (2) for claims filed on or after July 1, 1988, the rate of compensation for occupational diseases shall be established as of the date the disease requires medical treatment or becomes totally or partially disabling, whichever occurs first, and without regard to the date of the contraction of the disease or the date of filing the claim.

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

NEW SECTION. Sec. 4. The department of labor and industries shall conduct a study of the program established by section 1 of this act. The department's study shall include the use of benefits under the program and the cost of the program. The department shall report the results of the study to the economic development and labor committee of the senate and the commerce and labor committee of the house of representatives, or the appropriate successor committees, at the start of the 1993 regular legislative session.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall take effect July 1, 1988, and shall apply to all claims filed on or after that date or pending a final determination on that date.

Sec. 6. Section 1, chapter 387, Laws of 1985 and RCW 49.26.100 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 49.26.100 through 49.26.140.

(1) "Asbestos project" means the construction, demolition, repair, maintenance, remodeling, or renovation of any public or private building or mechanical piping equipment or systems involving the demolition, removal, encapsulation, salvage, or disposal of material, or outdoor activity, releasing or likely to release asbestos fibers into the air.

(2) "Department" means the department of labor and industries.

(3) "Person" means any partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

(4) "Certified asbestos supervisor" means an individual who is certified by the department to supervise an asbestos project.

(5) "((~~Qualified~~)) Certified asbestos worker" means an individual who is certified by the department to ((~~undertake~~)) work on an asbestos project.

(((~~5~~))) (6) "Certified asbestos contractor" means any partnership, firm, association, corporation or sole proprietorship registered under chapter 18-.27 RCW that submits a bid or contracts to ((~~perform the removal or encapsulation of~~)) remove or encapsulate asbestos for another and is certified by the department to remove or encapsulate asbestos.

(7) "Owner" means the owner of any public or private building, structure, facility or mechanical system, or the agent of such owner.

NEW SECTION. Sec. 7. A new section is added to chapter 49.26 RCW to read as follows:

(1) Any owner or owner's agent who allows or authorizes any construction, renovation, remodeling, maintenance, repair, or demolition project which has a reasonable possibility, as defined by the department, of disturbing or releasing asbestos into the air, shall perform or cause to be performed, using practices approved by the department, a good faith inspection to determine whether the proposed project will disturb or release any material containing asbestos into the air.

An inspection under this section is not required if the owner or owner's agent is reasonably certain that asbestos will not be disturbed or assumes that asbestos will be disturbed by a project which involves construction, renovation, remodeling, maintenance, repair, or demolition and takes the maximum precautions as required by all applicable federal and state requirements.

(2) Except as provided in section 13 of this act, a written report describing each inspection, or a statement of assumption of the presence or reasonable certainty of the absence of asbestos, shall be included as part of the written notice of the asbestos project required in RCW 49.26.120. A copy of the written report or statement shall be given to the collective bargaining representatives or employee representatives, if any, of employees who may be exposed to any asbestos or material containing asbestos. A copy shall be posted as prescribed by the department in a place that is easily accessible to such employees.

NEW SECTION. Sec. 8. A new section is added to chapter 49.26 RCW to read as follows:

(1) Any owner or owner's agent who allows the start of any construction, renovation, remodeling, maintenance, repair, or demolition without first (a) conducting the inspection and submitting the report of the inspection, or submitting a statement of assumption of the presence or reasonable certainty of the absence of asbestos, as required under section 7 of this act; and (b) submitting the additional written description of the project as required under RCW 49.26.120 shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of section 7 of this act and RCW 49.26.120 shall be halted immediately and cannot be resumed before meeting such requirements. Any costs resulting from the halt of the project incurred by contractors or other parties affected by the halt of the project shall be paid by the owner or the owner's agent.

(2) It is the responsibility of any contractor registered under chapter 18.27 RCW to request in writing a copy of the written report or statement required under section 7 of this act from the owner or the owner's agent. No contractor may commence any construction, renovation, remodeling, maintenance, repair or demolition project without receiving the copy of the written report or statement from the owner or the owner's agent. Any contractor who begins any project without the copy of the written report or statement shall be subject to a mandatory fine of not less than two hundred and fifty dollars per day. Each day the violation continues shall be considered a separate violation.

(3) Any partnership, firm, corporation or sole proprietorship that begins any construction, renovation, remodeling, maintenance, repair, or demolition without meeting the requirements of section 7 of this act and the notification requirement under RCW 49.26.120 shall lose the exemptions provided in RCW 49.26.110 and 49.26.120 for a period of not less than six months.

(4) The certificate of any asbestos contractor who knowingly violates any provision of this chapter or any rule adopted under this chapter shall be revoked for a period of not less than six months.

(5) The penalties imposed in this section are in addition to any penalties under RCW 49.26.140.

***NEW SECTION.** Sec. 9. A new section is added to chapter 49.26 RCW to read as follows:*

A safety conference shall be held for all asbestos projects within seven days before the start of actual work. A weekly safety conference shall suffice for purposes of this section as long as all asbestos projects that will be started that week at the same location are discussed. The conference shall include representatives of the owner or contracting agency, the certified asbestos contractor, the employer, the employees of the certified asbestos contractor and the employer including the certified asbestos workers, and the employees' representatives or collective bargaining representatives. It shall include a discussion of the employer's and contractor's safety program and such means, methods, devices, processes, practices, conditions, or operations the employer and contractors intend to use in providing a safe work environment.

Minutes shall be kept of each safety meeting and shall include the date of the meeting, the names of the individuals in attendance and the issues discussed. One copy of the meeting minutes shall be kept on file at the company and one copy shall be given to the employees' collective bargaining representative, or employee representative, if any, and shall be posted as prescribed by the department in a place that is easily accessible to employees.

Sec. 9 was vetoed, see message at end of chapter.

Sec. 10. Section 2, chapter 387, Laws of 1985 and RCW 49.26.110 are each amended to read as follows:

(1) No ((~~contractor;~~)) employee((;)) or other individual is eligible to do work ((~~on an asbestos project~~)) governed by this chapter unless issued a certificate by the department except, in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship which has not lost this exemption under section 8(3) of this 1988 act, and conducted in its own facility and by its own employees under the direct, on-site supervision of a ((~~qualified~~)) certified asbestos ((~~worker~~)) supervisor. For the purposes of this chapter, on-site supervision shall include all activities taking place in the performance of a contract at one project location. In cases excepted under this section, the partnership, firm, corporation or sole

proprietorship shall submit a written description to the department of the kinds of asbestos projects expected to be undertaken and the procedures to be used in undertaking asbestos projects, which description shall demonstrate competence in performing the work in compliance with the requirements of this chapter, rules adopted under this chapter, and any other requirements of law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos. To qualify for a certificate((~~, the contractor, employee, or other individual~~)): (a) Certified asbestos workers and supervisors must have successfully completed a ((~~basic~~)) training course of at least thirty hours, provided or approved by the department, on the health and safety aspects of the removal and encapsulation of asbestos including but not limited to the federal and state standards regarding protective clothing, respirator use, disposal, air monitoring, cleaning, and decontamination, and shall meet such additional qualifications as may be established by the department by rule for the type of certification sought; and (b) all applicants for certification as asbestos workers or supervisors must pass an examination in the type of certification sought which shall be provided or approved by the department. ((~~This training is~~)) These requirements are intended to represent the minimum ((~~training and education~~)) requirements for certification and shall not preclude contractors or employers from providing additional education or training. The department may require the successful completion of annual refresher courses provided or approved by the department for continued certification as an asbestos worker or supervisor.

(2) The department may deny, suspend, or revoke a certificate, ((~~in accordance with chapter 34.04 RCW~~)) as provided under RCW 49.26.140, for failure of the holder to comply with any requirement of this chapter or chapter 49.17 RCW, or any rule adopted under those chapters, or applicable health and safety standards and regulations. In addition to any penalty imposed under section 8 of this 1988 act, the department may suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:

(a) The certificate was obtained through error or fraud; or

(b) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.

Before any certificate may be suspended or revoked, the holder thereof shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against such holder, and shall give him or her the opportunity to request a hearing before the department. At such hearing, the department and the holder shall have opportunity to produce witnesses and give testimony.

(3) Each person certified under this chapter shall display, upon the request of an authorized representative of the department, valid identification issued by the department.

NEW SECTION. Sec. 11. A new section is added to chapter 49.26 RCW to read as follows:

Before working on an asbestos project, a contractor shall obtain an asbestos contractor's certificate from the department and shall have in its employ at least one certified asbestos supervisor who is responsible for supervising all asbestos projects undertaken by the contractor and for assuring compliance with all state laws and regulations regarding asbestos. The contractor shall apply for certification renewal every year. The department shall ensure that the expiration of the contractor's registration and the expiration of his or her asbestos contractor's certificate coincide.

Sec. 12. Section 4, chapter 387, Laws of 1985 and RCW 49.26.120 are each amended to read as follows:

(1) No person may assign any employee, contract with, or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a ((~~qualified~~)) certified asbestos worker and under the direct, on-site supervision of a certified asbestos supervisor except, in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship which has not lost this exemption under section 8(3) of this 1988 act, and conducted in its own facility and by its own employees under the direct, on-site supervision of a ((~~qualified~~)) certified asbestos ((~~worker~~)) supervisor. In cases excepted under this section, the partnership, firm, corporation or sole proprietorship shall submit a written description to the department of the kinds of asbestos projects expected to be undertaken and the procedures to be used in undertaking asbestos projects, which description shall demonstrate competence in performing the work in compliance with the requirements of this chapter, rules adopted under this chapter, and any other requirements of law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos. The department ((~~may~~)) shall require persons undertaking asbestos projects to provide written notice to the department before the commencement of the project except as provided in section 13 of this 1988 act. The notice shall include a written description containing such information as the department requires by rule, including the written report or statement required under section 7 of this 1988 act. The department may by rule allow a person to report multiple projects at one site in one report. The department shall by rule clarify the procedure and criteria by which a person will be considered to have attempted to meet the prenotification requirement.

(2) The department shall by rule, after consultation with the state fire protection policy board, establish policies and procedures for municipal fire department and fire district personnel who clean up sites after fires which have rendered it likely that asbestos has been or will be disturbed or released into the air.

NEW SECTION. Sec. 13. A new section is added to chapter 49.26 RCW to read as follows:

Prenotification to the department under RCW 49.26.120, including submission of the report or statement required under section 7 of this act, shall not be required for:

(1) Any asbestos project involving less than eleven square feet of surface area, or less than ten linear feet of pipe unless the surface area of the pipe is greater than eleven square feet. The person undertaking such a project shall keep the reports, or statements, and written descriptions required under section 7 of this act and RCW 49.26.120 which shall be available upon request by the department. Employees and employee representatives shall be notified as required under section 7(2) of this act.

(2) Projects which are defined as emergencies by the rules of the department. Emergency projects which disturb or release any material containing asbestos into the air shall be reported to the department within three working days after the commencement of the project in the manner otherwise required under this chapter. The person's employees and the employees' collective bargaining representatives, or employee representatives, if any, shall be notified of the emergency as soon as possible by the person undertaking the emergency project.

***NEW SECTION.** Sec. 14. A new section is added to chapter 49.26 RCW to read as follows:*

All owners shall make a good faith effort, using practices approved by the department, to identify all materials which contain asbestos in their facilities and maintain records which catalog the location of the identified materials containing asbestos. Copies of these records shall be made available on request to the department, the employees' collective bargaining representative, or employee representative, the employees, and any contractor preparing bids for work to be performed on the owner's facilities.

***Sec. 14 was vetoed, see message at end of chapter.**

Sec. 15. Section 3, chapter 387, Laws of 1985 as amended by section 1, chapter 219, Laws of 1987 and RCW 49.26.130 are each amended to read as follows:

(1) The department shall administer ((~~RCW 49.26.110 through 49.26.140~~)) this chapter.

(2) The director of the department shall adopt, in accordance with chapters 34.04 and 49.17 RCW, rules necessary to carry out ((~~RCW 49.26.110 through 49.26.140~~)) this chapter.

(3) The department ((~~may~~)) shall prescribe fees for the issuance and renewal of certificates, including recertification, and the administration of examinations, and for the review of training courses.

(4) The asbestos account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in the account. Moneys in the account shall be spent after appropriation only for costs incurred by

the department in the administration and enforcement of this chapter. Disbursements from the account shall be on authorization of the director or the director's designee.

NEW SECTION. Sec. 16. A new section is added to chapter 49.26 RCW to read as follows:

Any employee who notifies the department of any activity the employee reasonably believes to be a violation of this chapter or any rule adopted under this chapter or who participates in any proceeding related thereto shall have the same rights and protections against discharge or discrimination as employees are afforded under chapter 49.17 RCW.

***NEW SECTION.** Sec. 17. A new section is added to chapter 49.26 RCW to read as follows:*

Workers previously certified by the department to work on asbestos projects whose certification is valid on the effective date of this act shall be required to attend annual refresher courses to be recertified under this chapter. The department may require all persons who apply for recertification as required under this chapter to successfully complete educational requirements as required by the department by rule and to pass an examination.

***Sec. 17 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 18. There is appropriated from the accident fund to the department of labor and industries for the biennium ending June 30, 1989, the sum of five hundred thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act. Repayment shall be made from the asbestos account to the accident fund of any moneys appropriated by law in order to implement this act.

NEW SECTION. Sec. 19. Sections 15 and 18 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. Sections 6 through 14, 16, and 17 of this act shall take effect January 1, 1989. The department of labor and industries may immediately take such steps as are necessary to ensure that sections 6 through 18 of this act are implemented on those dates.

Passed the House March 7, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to sections 3, 9, 14, and 17, Substitute House Bill No. 1592 entitled:

"AN ACT Relating to industrial insurance benefits for occupational diseases."

Section 3 of this bill is similar to, and serves the same purpose as, section 5 of Engrossed House Bill No. 1396, which I have signed into law. To avoid confusion, I have vetoed section 3.

Section 9 would mandate weekly safety meetings for asbestos projects. There is no flexibility for projects that might deserve more frequent or less frequent meetings. Requirements established by rule can better address the variety of different situations that would necessitate meetings. I am directing the Department of Labor and Industries to establish appropriate requirements through its rule-making authority. For this reason, I have vetoed section 9.

Section 14 would require the owners of all buildings and facilities public or private to inventory their property to identify all materials containing asbestos. Records of this inventory would have to be maintained and made available for inspection by the Department of Labor and Industries and other parties.

These inventories may be of value to companies. I would encourage the state's employers to undertake such surveys. The section is so broadly worded, however, that it is unworkable. The bill would technically require every citizen of the state who owns a building to conduct an inventory. It is not reasonable to expect homeowners to conduct an inventory in order that it be available whenever they plan remodeling or other work on their house. I feel that section 14 would create difficulties for individuals that it was not intended to affect.

I am asking the Department of Labor and Industries to review the issue and to suggest appropriate requirements for asbestos inventories. For these reasons, I have vetoed section 14.

Section 17 would require workers who are currently certified for a two-year period to be recertified after only one year. I do not feel that this is necessary, since these individuals will begin annual recertification when their current certification expires. Therefore, I have vetoed section 17.

With the exception of sections 3, 9, 14, and 17, Substitute House Bill No. 1592 is approved."

CHAPTER 272

[Substitute Senate Bill No. 6024]

HYDRAULIC PROJECTS—STREAMBANK STABILIZATION TO PROTECT FARM AND AGRICULTURAL LAND

AN ACT Relating to rivers and streams in agricultural areas; amending RCW 75.20.100, 75.20.103, and 75.20.130; and creating new sections.

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 1, chapter 173, Laws of 1986 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 of the salt or fresh waters of the state, 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 of fisheries or the department of ((~~game~~)) wildlife 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~~)) wildlife 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 department of fisheries or the department of ((~~game~~)) wildlife 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 approval within two years of the date of issuance. If either the department of fisheries or the department of ((~~game~~)) wildlife 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 department of fisheries or the department of ((~~game~~)) wildlife 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 RCW 75.20.103, "bed" shall mean 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 of fisheries and the department of ((~~game~~)) wildlife shall mutually agree on whether the department of fisheries or the department of ((~~game~~)) wildlife 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~~)) wildlife 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~~)) wildlife, 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. 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, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020. These irrigation or stock watering diversion and streambank stabilization projects shall be governed by RCW 75.20.103.

Sec. 2. Section 2, chapter 173, Laws of 1986 and RCW 75.20.103 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 other work that diverts water for agricultural irrigation or stock watering purposes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, and when ((~~the construction or other work~~)) such diversion or streambank stabilization 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)) wildlife 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)) wildlife 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)) wildlife 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. Approval for streambank stabilization projects shall remain in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. 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)) wildlife 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)) wildlife 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~~)) wildlife 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~~)) wildlife shall mutually agree on whether the department of fisheries or the department of ((~~game~~)) wildlife 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~~)) wildlife 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~~)) wildlife, 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.

For purposes of this chapter, "streambank stabilization" shall include but not be limited to log and debris removal, bank protection (including riprap, jetties, and groins), gravel removal and erosion control.

Sec. 3. Section 4, chapter 173, Laws of 1986 and RCW 75.20.130 are each amended to read as follows:

(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~~)) wildlife under the authority granted in RCW 75.20.103 for the diversion of water for agricultural irrigation or stock watering purposes or when associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020.

(6) (a) Any person aggrieved by the approval, denial, conditioning, or modification of a hydraulic approval pursuant to RCW 75.20.103 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. 4. In certain agricultural areas of the state the composition of the soil and the topography combine to create flood-prone conditions. Unless accumulated sand and gravel are removed from these rivers and streams on a regular basis a heavy rainstorm may cause a disastrous flood. The practices of the department of natural resources in establishing rates charged to commercial sand and gravel businesses cause the businesses to obtain their product from upland sources rather than from rivers and streams. As a consequence, sand and gravel accumulate in the streams and many communities are threatened with periodic, severe floods. These floods are more frequent and severe because of the accumulation of material in the rivers.*

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

NEW SECTION. Sec. 5. The department of natural resources and the department of ecology shall study methods of diminishing flood risks by encouraging sand and gravel businesses to remove excess accumulation of materials from the beds of rivers and streams in agricultural areas. By December 1, 1989, the department of natural resources and the department of ecology shall report the results of this study to the appropriate legislative committees. In preparing the study and report, the departments shall work with the Washington association of conservation districts, the conservation commission, representation from the private sand and gravel industry, the department of fisheries, and the department of wildlife to identify alternative aquatic land management policies to diminish the risks of flooding and identify methods of adjusting sand and gravel prices annually to reflect local market conditions.

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 7, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 4, Substitute Senate Bill No. 6024 entitled:

"AN ACT Relating to rivers and streams in agricultural areas."

At this time, counties throughout the state are developing flood control management plans that will provide a comprehensive review of flood control issues. Section 4, however, includes a finding that the accumulation of sand and gravel in the state's river and stream beds substantially increases the risks of disastrous floods. Although sand and gravel removal are expected to be elements of these plans, other more environmentally sensitive methods should be encouraged and studied before the state begins implementing a response.

With the exception of section 4, Substitute Senate Bill No. 6024 is approved.

CHAPTER 273

[Senate Bill No. 6397]
FOREST FIRES

AN ACT Relating to forest fires; amending RCW 76.04.610 and 76.04.750; and adding new sections to chapter 76.04 RCW.

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

***NEW SECTION.** Sec. 1. A new section is added to chapter 76.04 RCW to read as follows:*

Upon arriving at the scene of a forest fire, the first priority of the employees or agents of the department shall be to attempt to extinguish the fire, and attempts to conduct a survey of contiguous property to ascertain the necessity to remove individuals or property from the area of the fire shall be secondary to that responsibility. This section shall not be construed as preventing assistance to individuals in immediate danger from the fire.

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

NEW SECTION. Sec. 2. A new section is added to chapter 76.04 RCW to read as follows:

(1) The legislature finds and declares that forest lands within the state are increasingly being used for residential purposes; that the risk to life and property is increasing from forest fires which may destroy developed property; that the department's primary mission is to protect forest land and suppress forest fires; that a primary mission of the rural fire districts and municipal fire departments is to protect improved property and suppress structural fires; that adjustment of the geographic areas of responsibility for the respective fire control agencies has not kept pace with the increasing use of forest lands for residential purposes; and that the department should work with the state's other fire control agencies to define geographic areas of responsibility that are more consistent with their respective primary missions.

(2) To accomplish the purposes of subsection (1) of this section, the department shall establish a procedure to clarify its geographic areas of responsibility. The areas of department protection shall be called forest protection zones. The forest protection zones shall include all forest land which the department is obligated to protect but shall not include forest land within rural fire districts or municipal fire districts which affected local fire control agencies agree, by mutual consent with the department, is not appropriate for department protection. Forest land not included within a forest protection zone established by mutual agreement of the department and a rural fire district or a municipal fire district shall not be assessed under RCW 76.04.610 or 76.04.630.

(3) After the department and any affected local fire protection agencies have agreed on the boundary of a forest protection zone, the department shall establish the boundary by rule under chapter 34.04 RCW.

(4) Except by agreement of the affected parties, the establishment of forest protection zones shall not alter any mutual aid agreement.

Sec. 3. Section 35, chapter 100, Laws of 1986 and RCW 76.04.610 are each amended to read as follows:

(1) If any owner of forest land within a forest protection zone, or any owner of forest land located where fire protection responsibility has not been mutually agreed upon as provided in section 2(2) of this 1988 act, neglects or fails to provide adequate fire protection as required by RCW 76.04.600, the department shall provide such protection, notwithstanding the provisions

of RCW 76.04.630, at a cost to the owner of not to exceed twenty-one 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)~~)) (a) there shall be no assessment on ((~~each~~)) any parcel of privately owned lands of less than two acres or on ((~~each~~)) any parcel of tax-exempt lands of less than ten acres; ((~~(2)~~)) (b) for lands not exempt under ((~~(1)~~)) (a) 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)~~)) (c) 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~~)). Verification that all assessments and property taxes on the property have been paid((~~, but~~)) shall be provided to the department by the owner. If the total acreage of the parcels exceeds thirty acres, the per-acre rate shall apply and the refund shall be computed accordingly. Application for the refund may be made by mail.

(2) 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.

(3) 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~~)). Collections shall be applied against expenses incurred in carrying out the provisions of this section, including necessary and reasonable administrative costs incurred by the department in the enforcement of these provisions. The department may also expend any sums collected from owners of forest lands or received from any other source for necessary administrative costs in connection with the enforcement of RCW 76.04.660.

(4) 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.

(5) All nonfederal public bodies owning or administering forest land((~~s~~)) included in a forest protection zone shall pay the forest ((~~fire~~)) protection assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.630. The forest ((~~fire~~)) protection assessments and special forest fire suppression account assessments shall be payable by nonfederal public bodies from any available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments shall not be a lien against the nonfederal publicly owned land but shall constitute a debt by the nonfederal public body to the department and shall be subject to interest charges ((~~in the same amount as other unpaid forest fire protection assessments~~)) at the legal rate.

(6) A public body, having failed to previously pay the 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.

(7) The supervisor of the department of natural resources shall furnish the surety company bond under RCW 43.30.170(6), conditioned for the faithful performance of his duties and for a faithful accounting for all sums received and expended thereunder, which bond shall be approved by the attorney general.

(8) 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.

Sec. 4. Section 45, chapter 100, Laws of 1986 and RCW 76.04.750 are each amended to read as follows:

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 and the fire is on or threatening forest land within a forest protection zone, 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 RCW 76.04.475, 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.

Passed the Senate March 7, 1988.
Passed the House March 4, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 1, Senate Bill No. 6397 entitled:

"AN ACT Relating to forest fires."

Section 1 of this bill establishes a priority for the Department of Natural Resources to extinguish forest fires before determining if individuals or structures are at risk in neighboring properties. This is similar to language vetoed by me after the 1987 regular legislative session.

At that time, I stated that the direction this languages gives to the department is confusing and inconsistent with the normal value we place on human life. I continue to believe this.

The remainder of this measure allows the department to clarify its duties with respect to fighting fires in conjunction with the services provided by rural fire districts. Section 2 states, in part, that "the department's primary mission is to protect forest land and to suppress forest fires." This policy statement offers the department greater flexibility when fighting a fire while providing a general direction for action.

With the exception of section 1, Senate Bill No. 6397 is approved."

CHAPTER 274

[Engrossed Substitute House Bill No. 1420]
TAXING DISTRICTS—LEVIES

AN ACT Relating to property taxes; amending RCW 39.67.010, 39.67.020, 84.55.092, 84.52.043, 84.52.100, and 84.52.010; adding a new section to chapter 84.52 RCW; adding a new section to chapter 52.04 RCW; creating new sections; and making an appropriation.

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

NEW SECTION. Sec. 1. The legislature finds that, due to statutory and constitutional limitations, the interdependence of the regular property tax levies of the state, counties, county road districts, cities and towns, and junior taxing districts can cause significant reductions in the otherwise authorized levies of those taxing districts, resulting in serious disruptions to essential services provided by those taxing districts. The purpose of this act is to avoid unnecessary reductions in regular property tax revenue without exceeding existing statutory and constitutional tax limitations on cumulative regular property tax levy rates. The legislature declares that it is a purpose of the state, counties, county road districts, cities and towns, public hospital districts, library districts, fire protection districts, metropolitan park districts, and other taxing districts to participate in the methods provided by this act by which revenue levels supporting the services provided by all taxing districts might be maintained.

Sec. 2. Section 1, chapter 107, Laws of 1986 and RCW 39.67.010 are each amended to read as follows:

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. The governing body of every taxing district that could have its tax levy adversely affected by such a contract shall be notified about the contract.

((~~This section shall expire December 31, 1988.~~))

Sec. 3. Section 2, chapter 107, Laws of 1986 and RCW 39.67.020 are each amended to read as follows:

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. The governing body of every taxing district that could have its tax levy adversely affected by such an agreement shall be notified about the agreement.

((~~This section shall expire December 31, 1988.~~))

Sec. 4. Section 3, chapter 107, Laws of 1986 and RCW 84.55.092 are each amended to read as follows:

The regular property tax ((~~levies~~)) levy 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 otherwise under this chapter if the regular property tax levy for the district for taxes due in prior years beginning with 1986 ((~~and 1987~~)) had been set at the full amount allowed under this chapter.

((~~This section shall expire December 31, 1991.~~)) The purpose of this section is to remove the incentive for a taxing district to maintain its tax levy at the maximum level permitted under this chapter, and to protect the future levy capacity of a taxing district that reduces its tax levy below the level that it otherwise could impose under this chapter, by removing the adverse consequences to future levy capacities resulting from such levy reductions.

Sec. 5. Section 134, chapter 195, Laws of 1973 1st ex. sess. and RCW 84.52.043 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named shall be as follows:

(1) Levies of the senior taxing districts shall be as follows: (a) The levy by the state shall not exceed three dollars and sixty cents per thousand dollars of assessed value adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county shall not exceed one dollar and eighty cents per thousand dollars of assessed value; (c) the levy ((~~for~~)) by any road district shall not exceed two dollars and twenty-five cents per thousand dollars of assessed value; and (d) the levy by ((~~or for~~)) any city or town shall not exceed three dollars and thirty-seven and one-half cents per thousand dollars of assessed value((~~: PROVIDED FURTHER, That counties of the fifth class and under are~~)).

However any county is hereby authorized to increase its levy from one dollar and eighty cents to a rate not to exceed two dollars and forty-seven and one-half cents per thousand dollars of assessed value for general county purposes ((~~and from one dollar and fifty-seven and one-half cents to two dollars and twenty-five cents per thousand dollars of assessed value for county road purposes~~)) if the total ((~~levy~~)) levies for both ((~~purposes does~~)) the county and any road district within the county do not exceed four dollars and five cents per thousand dollars of assessed value((~~: PROVIDED FURTHER, That counties of the fourth and the ninth class are hereby authorized to levy two dollars and two and one-half cents per thousand dollars of assessed value until such time as the junior taxing agencies are utilizing all the dollar rates available to them: AND PROVIDED FURTHER, That the total property tax levy authorized by law without a vote of the people shall not exceed nine dollars and fifteen cents per thousand dollars of assessed value~~)), and no other taxing district has its levy reduced as a result of the increased county levy.

(2) Except as provided in RCW 84.52.100, the aggregate levies of junior taxing districts and senior taxing districts, other than the state, shall not exceed five dollars and fifty-five cents per thousand dollars of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection shall not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district ((~~shall not be included in the limitation set forth by this proviso: Nothing herein shall prevent levies at the rates provided by existing law by or for any port or power district~~)); (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; and (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069.

(3) It is the intent of the legislature that the provisions of this section shall supersede all conflicting provisions of law including ((~~section 24, chapter 299, Laws of 1971 ex. sess. and section 8, chapter 124, Laws of 1972 ex. sess~~)) RCW 84.52.050.

Sec. 6. Section 7, chapter 138, Laws of 1987 and RCW 84.52.100 are each amended to read as follows:

(1) The governing body of any library district, public hospital district, metropolitan park district, or fire protection district may provide for the submission of a ballot proposition to the voters of the taxing district authorizing the taxing district to maintain its otherwise authorized tax levy rate, and authorizing an increase in the cumulative regular property tax limitation established in RCW 84.52.043 of ((~~nine~~)) five dollars and ((~~fifteen~~)) fifty-five cents per thousand dollars of assessed valuation within the

taxing district, as provided in this section. A fire protection district may use this authority to increase its regular property tax levy up to fifty cents per thousand dollars of assessed valuation.

(2) A resolution by a governing body, requesting that a special election be called to submit such a ballot proposition to the voters, must be transmitted to the county legislative authority of the county, or county legislative authorities of the counties, within which the taxing district is located, at least forty-five days before the special election date at which the ballot proposition is submitted. The ballot proposition shall be worded substantially as follows:

"Shall the cumulative limitation on most regular property tax rates be increased by an amount not exceeding thirty-five cents per thousand dollars of assessed valuation for a five consecutive year period allowing (insert the name of the taxing district) to maintain its otherwise statutory authorized property tax rate?"

The ballot proposition for a fire protection district shall be worded substantially as follows:

"Shall the cumulative limitation on most regular property tax rates be increased by an amount not exceeding thirty-five cents per thousand dollars of assessed valuation for a five consecutive year period allowing (insert the name of the taxing district) to permit the fire protection district to impose its property tax at a value up to fifty cents per thousand dollars of assessed valuation?"

Approval of this ballot proposition by a simple majority vote shall authorize the following for the succeeding five consecutive year period: (a) Property tax rates of junior taxing districts are calculated first as if this proposition had not been approved; (b) subject to the one hundred six percent limitation, the regular property tax rate of the taxing district receiving such authorization is increased to a level not exceeding the lesser of: (i) Its maximum statutory authorized regular property tax rate; or (ii) whatever tax rate it otherwise would have been able to impose plus an additional thirty-five cents per thousand dollars of assessed valuation; and (c) the cumulative property tax rate limitation is increased within the boundaries of the taxing district receiving this authorization to an amount equal to ((~~nine~~)) five dollars and ((~~fifteen~~)) fifty-five cents per thousand dollars of assessed valuation plus the increased amount of the regular levy rate of this taxing district, but not to exceed ((~~nine~~)) five dollars and ((~~fifty~~)) ninety cents per thousand dollars of assessed valuation.

(3) If two or more taxing districts that occupy a portion of the same territory receive such approval, the additional authorized taxing capacity above ((~~nine~~)) five dollars and ((~~fifteen~~)) fifty-five cents per thousand dollars of assessed valuation shall be distributed among these taxing districts by adjusting their levy rate requests in the same manner and under the same conditions as if they were the only taxing districts in the area subject

to adjustment of their property tax rates and the levy rate adjustments were being made with the cumulative limitation of ((~~nine~~)) five dollars and ((~~fifteen~~)) fifty-five cents per thousand dollars of assessed valuation.

(4) Levies authorized under RCW 84.52.069 are not subject to the rate adjustments and the ((~~nine~~)) five dollar and ((~~fifty~~)) ninety cent per thousand dollar of assessed valuation cumulative limitation on regular property tax rates established by this section.

Sec. 7. Section 84.52.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 255, Laws of 1987 and RCW 84.52.010 are each amended to read as follows:

Except as is permitted under RCW 84.55.050, all taxes shall be levied or voted in specific amounts.

The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, as now or hereafter amended, exceeds the limitations provided in either of these sections, the assessor shall recompute and establish a consolidated levy in the following manner:

(1) The full certified rates of tax levy for state, county, county road district, and city or town purposes shall be extended on the tax rolls in amounts not exceeding the limitations established by law((~~: PROVIDED, That in the event of a levy made pursuant to RCW 84.34.230, the rates of levy for county and county road district purposes shall be reduced in such uniform percentages as will result in a consolidated levy by such taxing districts which will be no greater on any property than a consolidated levy by such taxing districts would be if the levy had not been made pursuant to RCW 84.34.230~~)), subject to subsection (2)(e) of this section; however any state levy shall take precedence over all other levies and shall not be reduced for any purpose other than that required by RCW 84.55.010; and

(2) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property shall be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(a) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, and 67.38.130 shall be reduced on a pro rata basis or eliminated;

(b) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts shall be reduced on a pro rata basis or eliminated;

(c) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, public hospital districts, metropolitan park districts, and library districts, shall be reduced on a pro rata basis or eliminated;

(d) Fourth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 shall be reduced on a pro rata basis or eliminated; ((~~and~~))

(e) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for cities and towns, fire protection districts under RCW 52.16.130, public hospital districts, metropolitan park districts, and library districts shall be adjusted as provided in section 8 of this 1988 act; and

(f) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.130, and the certified property tax levy rates of public hospital districts, metropolitan park districts, and library districts, shall be reduced on a pro rata basis or eliminated.

NEW SECTION. Sec. 8. A new section is added to chapter 84.52 RCW to read as follows:

(1) In any county, if, after any reduction in levy rates required by RCW 84.52.010(2)(a) through (d), the consolidated tax levy rate still exceeds the limitations in RCW 84.52.043 or 84.52.050, then the department pursuant to rules shall direct the county assessor to adjust the regular property tax levy rates in the following manner:

(a) First, the assessor determines a first preliminary rate pursuant to RCW 84.52.010(2)(f).

(b) Second, the assessor determines a second preliminary rate which is the additional rate, if any, permitted by RCW 84.52.100.

(i) If the preliminary rates together are sufficient to permit all rates subject to RCW 84.52.010(2)(f) to be levied without reduction, then the assessor shall extend on the tax rolls the full certified rates pursuant to RCW 84.52.010(2)(f) and 84.52.100.

(ii) If the preliminary rates together are not sufficient to permit all rates subject to RCW 84.52.010(2)(f) to be levied without reduction pursuant to both RCW 84.52.010(2)(f) and 84.52.100, the assessor shall reduce the rate of the taxing district subject to RCW 84.52.010(2)(e) with the smallest assessed valuation such that, after first allowing for any additional rate permitted by RCW 84.52.100, there is no reduction of the rates under RCW 84.52.010(2)(f). Where the reduction of the levy of a taxing district

is not sufficient, the taxing district with the next smallest assessed valuation shall have its levy reduced under this subsection until there is no reduction of rates under RCW 84.52.010(2)(f). The assessor shall then extend on the tax rolls the rates derived pursuant to this subsection (b)(ii).

(2) The taxing districts whose levies would have been reduced but for subsection (1) of this section shall pay to each district that had its levy so reduced pursuant to subsection (1) of this section a proportionate share of the reduced amount based on the amount by which each district would have had its total levy rate reduced if subsection (1) of this section were not in effect and the rates had been adjusted pursuant to RCW 84.52.010(2)(f) and 84.52.100.

(a) In the case of a public hospital district, library district, fire protection district, or metropolitan park district whose levy is reduced under subsection (1) of this section, the district shall bear a proportionate share as if its rate were sufficient to collect its certified levy.

(b) In the case of a city or town that is annexed by a library district or a fire protection district, which city's or town's levy is reduced under this section, or is in a tax code area where a levy rate is reduced under this section, the city or town shall forgo receipt of, or pay to each district whose levy rate is reduced, ten percent of the amount which would otherwise be paid to the city or town from each district whose levy rate is not reduced as a result of subsection (1) of this section, collectively not to exceed one-half of the following amount: The assessed valuation of the reduced district multiplied by a rate equal to the city's or town's levy rate, calculated based on its certified levy request, plus the rate(s) of the annexing district(s) minus the rate the city or town would have been able to levy were it not annexed, not to exceed twenty-two and one-half cents.

(3) Fifty-five percent of the amount under subsection (2) of this section shall be distributed on or before May 31 of the tax collection year for which the levy is reduced and forty-five percent on or before November 30 of that year.

(4) This section shall expire on December 31, 1989.

NEW SECTION. Sec. 9. The department of revenue shall adopt such rules consistent with this act as shall be necessary or desirable to permit its effective administration. The rules shall provide how section 8 of this act shall apply to a taxing district that has received authorization to increase its levy according to RCW 84.52.100 and use the method that will be the least costly to all taxing districts involved.

NEW SECTION. Sec. 10. There is created in the custody of the state treasurer an account to be known as the "small county assistance account." Effective July 1, 1988, and notwithstanding RCW 43.84.092, one-half of

the investment income earned on moneys in the local sales and use tax account created by RCW 82.14.050 and which has not been distributed according to RCW 82.14.060 shall be placed into this account. Any moneys in the account on December 31, 1989, shall be transferred to the general fund.

The state treasurer shall disburse moneys from this account, upon certification by the director of revenue, to each fifth class and smaller county that contracts with, or transfers funds to, a taxing district or districts under RCW 39.67.010 or 39.67.020 if, as a result of the contracts or transfers, the county is able to increase its county–wide general tax levy above one dollar and eighty cents per thousand dollars of assessed valuation, in accordance with RCW 84.52.043.

Each eligible county shall receive an amount of money from this account that is equal to the amount that the county transfers or pays to the other taxing district or districts. One–half of the distributions shall be made to each eligible county on or before April 30, 1989, and one–half of the distributions shall be made to each eligible county on or before October 31, 1989. These amounts shall be proportionally reduced if the moneys in the account are insufficient to reimburse the full amount that these counties transferred or paid to such taxing districts. Distributions from this account are not subject to appropriation.

Each county that so transfers or pays moneys to taxing districts shall provide evidence of such arrangements to the director of revenue on or before January 31, 1989. The director of revenue shall certify to the state treasurer each county that is eligible for such disbursements and the amount that the county so transferred or paid.

This section expires January 1, 1990.

NEW SECTION. Sec. 11. The sum of one hundred thousand dollars is appropriated for the biennium ending June 30, 1989, from the general fund to the small county assistance account to be used exclusively for purposes specified in section 10 of this act.

NEW SECTION. Sec. 12. A new section is added to chapter 52.04 RCW to read as follows:

Any attempted annexation in 1987 and thereafter by a fire protection district of contiguous territory, that is located in a county other than the county in which the fire protection district was located, is validated where the annexation would have occurred if the territory had been located in the same county as the fire protection district. The effective date of such annexations occurring in 1987 shall be February 1, 1988, for purposes of establishing the boundaries of taxing districts for purposes of imposing property taxes as provided in RCW 84.09.030.

Any reference to a county official of the county in which a fire protection district is located or proposed to be located shall be deemed to refer to the appropriate county official of each county in which the fire protection district is located or proposed to be located.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 275

[Engrossed Substitute House Bill No. 1465]
CHILD SUPPORT SCHEDULE

AN ACT Relating to child support; amending RCW 26.09.100, 74.20A.055, 74.20A.160, 26.09.170, 26.23.030, 74.20.330, and 74.20A.030; amending section 1, chapter 440, Laws of 1987 (uncodified); amending section 2, chapter 440, Laws of 1987 (uncodified); adding a new chapter to Title 26 RCW; adding a new section to chapter 26.10 RCW; adding a new section to chapter 26.21 RCW; adding a new section to chapter 13.32A RCW; adding a new section to chapter 13.34 RCW; adding a new section to chapter 26.26 RCW; creating a new section; repealing RCW 74.20.270; repealing section 4, chapter 440, Laws of 1987 (uncodified); providing effective dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

The legislature finds that these goals will be best achieved by the adoption and use of a state-wide child support schedule. Use of a state-wide schedule will benefit children and their parents by:

(1) Increasing the adequacy of child support orders through the use of economic data as the basis for establishing the child support schedule;

(2) Increasing the equity of child support orders by providing for comparable orders in cases with similar circumstances; and

(3) Reducing the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform state-wide child support schedule.

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

(1) "Child support schedule" means the standards and economic table adopted by the commission;

(2) "Standards" means the standards for determination of child support which have been adopted by the commission, as modified by the legislature;

(3) "Economic table" means the child support table for the basic support obligation which has been adopted by the commission;

(4) "Worksheets" means the forms adopted by the commission for use in determining the amount of child support;

(5) "Instructions" means the instructions adopted by the commission for use in completing the worksheets;

(6) "Commission" means the Washington state child support schedule commission established by section 4 of this act; and

(7) "Standard calculation" means the amount of child support which is owed as determined from the worksheets before any deviation is considered.

NEW SECTION. Sec. 3. (1) (a) Except as provided in (b) of this subsection, in any proceeding under this title or Title 13 or 74 RCW in which child support is at issue, support shall be determined and ordered according to the child support schedule adopted pursuant to section 5 of this act.

(b) If approved by a majority vote of the superior court judges of a county, the superior court may adopt by local court rule an economic table that shall be used by the superior court of that county, instead of the economic table adopted by the commission, to determine the appropriate amount of child support. The economic table adopted by the superior court shall not vary by more than twenty-five percent from the economic table adopted by the commission and shall not vary the economic table for combined monthly net income of two thousand five hundred dollars or less.

(2) An order for child support shall be supported by written findings of fact upon which the support determination is based.

(3) All income and resources of each parent's household shall be disclosed and shall be considered by the court or administrative law judge when the child support obligation of each parent is determined.

(4) Worksheets in the form approved by the commission shall be completed and filed in every proceeding in which child support is determined. Variations of the worksheets shall not be accepted.

(5) Unless specific reasons for deviation are set forth in the written findings of fact or order and are supported by the evidence, the court or administrative law judge shall order each parent to pay the amount of child support determined using the standard calculation.

(6) The court or administrative law judge shall review the worksheets and the order for adequacy of the reasons set forth for any deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Reasons that may support a deviation from the standard calculation include: Possession of wealth, shared living arrangements, extraordinary debts that have not been voluntarily incurred, extraordinarily high income of a child, a significant disparity of the living costs of the parents due to conditions beyond their control, and special

needs of disabled children. A deviation may be supported by tax planning considerations only if the child would not receive a lesser economic benefit. Agreement of the parties, by itself, is not adequate reason for deviation.

Sec. 4. Section 1, chapter 440, Laws of 1987 (uncodified) is amended to read as follows:

(1) A child support schedule commission is established. The commission shall ((~~recommend a child support schedule and propose changes in the schedule to the legislature no later than November 1, 1987~~)) review and propose changes to the child support schedule and review and adopt changes to the worksheets and instructions.

(2) The commission shall be composed of the secretary of social and health services or the secretary's designee and ((~~nine~~)) ten other members. ((~~Seven~~)) Eight members shall be appointed by the governor, subject to confirmation by the senate, as follows: (a) A superior court judge; (b) a representative from the state bar association; (c) an attorney representing indigent persons in Washington; (d) two other persons who have demonstrated an interest or expertise in the study of economic data or child support issues, one of ((~~which~~)) whom shall be a non-custodial parent; and (e) ((~~two~~)) three public members who represent the affected populations, ((~~one~~)) two of ((~~which~~)) whom shall be ((~~a~~)) non-custodial parents. Two members shall be the administrator for the courts or his or her designee and the attorney general or his or her designee. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; and of the state bar association in respect to the state bar association and indigent attorney representatives.

(3) The secretary of social and health services or the secretary's designee shall serve as ((~~chairman~~)) chair of the commission.

(4) The secretary, administrator for the courts, and attorney general shall serve on the commission ((~~during the secretary's tenure as secretary of social and health services~~)) while holding their respective positions. The term of the remaining members of the commission shall be three years, except that members serving on the commission as of the effective date of this 1988 act, shall serve staggered terms which shall be determined by lot, but shall not serve longer than three years from the date of appointment unless reappointed for an additional three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated under RCW 43.03.240.

(6) The office of the administrator for the courts and the office of support enforcement shall provide clerical and other support to the commission to enable it to perform its functions. The office of support enforcement shall

be responsible for travel expenses and compensation of commission members.

(7) The commission shall invite public participation and input, particularly from persons who are affected by child support orders.

(8) This section shall expire July 1, 1990.

Sec. 5. Section 2, chapter 440, Laws of 1987 (uncodified) is amended to read as follows:

(1) The schedule proposed by the commission in its report dated January 26, 1988, shall take effect July 1, 1988. The schedule shall remain in effect until revised under this section. The ((~~child support schedule~~)) commission shall ((~~propose a child support schedule to the legislature no later than November 1, 1987~~)) review the schedule and propose changes as needed each even-numbered year.

(2) The commission shall ((~~set~~)) review the ((~~child support~~)) schedule and recommended revisions based upon:

(a) Updated economic data which accurately reflects family spending and child rearing costs for families of different sizes and income levels in the state of Washington;

(b) Appropriate adjustments for significant changes in child rearing costs at different age levels;

(c) The need for funding of the child's primary residence by a payment which is sufficient to meet the basic needs of the child;

(d) Provisions for health care coverage and, when needed, child care payments; and

(e) The support amount shall be based on the child's age, the parent's combined income, and the family size. Family size shall mean all children for whom support is to be established.

(3) The commission shall establish standards for applying the child support schedule. Included in these standards shall be:

(a) The type, net or gross, and sources of income on which support amounts shall be based;

(b) Provisions for taking into account the voluntary unemployment or underemployment of one or both parents or if the income of a parent is not known; and

(c) Provisions for taking into account a parent whose income varies((; ~~and~~

~~(d) Provisions for taking into account the differing cost of living in the various counties in this state~~)).

(4) Any proposed revisions to the schedule shall be submitted to the legislature no later than November 1st of each even-numbered year.

(5) If the commission fails to propose revisions to the schedule, the existing schedule shall remain in effect, unless the legislature refers the schedule to the commission for modification or adopts a different schedule.

If the schedule is referred to the commission for modification, the provisions of subsection (7) of this section shall be applicable.

(6) The legislature may adopt the proposed schedule or refer the proposed schedule to the commission for modification. If the legislature fails to adopt or refer the proposed schedule to the commission by March 1 of the following year, the proposed schedule shall take effect without legislative approval on July 1 of that year.

(7) If the legislature refers the proposed schedule to the commission for modification on or before March 1st, the commission shall resubmit the proposed modifications to the legislature no later than March 15th. The legislature may adopt or modify the resubmitted proposed schedule. If the legislature fails to adopt or modify the resubmitted proposed schedule by April 1, the resubmitted proposed schedule shall take effect without legislative approval on July 1 of that year.

NEW SECTION. Sec. 6. (1) The commission shall develop and adopt worksheets and instructions. The commission shall attempt to the greatest extent possible to make the worksheets and instructions understandable by persons who are not represented by legal counsel.

(2) The administrator for the courts, in consultation with the commission, shall develop standards for the printing of worksheets and shall establish a process for certifying printed worksheets. The administrator shall not alter the design approved by the commission. The administrator may maintain a register of sources for approved worksheets.

NEW SECTION. Sec. 7. The schedule under section 5 of this act shall be published in the Washington State Register. The commission shall also request that the supreme court cause the schedule to be published in the official advance sheets of the supreme court of Washington. The commission shall also request that the Washington state bar association publish the schedule in the Washington state bar news.

NEW SECTION. Sec. 8. The commission shall examine methods for verifying the expenditure of child support payments and criteria for determining when verification is appropriate. The commission shall report to the house judiciary committee and senate law and justice committee not later than January 10, 1989, on its recommendations for a verification process.

Sec. 9. Section 10, chapter 157, Laws of 1973 1st ex. sess. as amended by section 3, chapter 430, Laws of 1987 and RCW 26.09.100 are each amended to read as follows:

In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount ((~~reasonable or necessary for his support~~)) determined pursuant to the schedule adopted

under section 5 of this 1988 act. The court may require annual adjustments of support based upon changes in a party's income or the child's needs, or based upon changes in ((~~an index or~~)) the child support schedule.

Sec. 10. Section 25, chapter 183, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 189, Laws of 1982 and RCW 74.20A.055 are each amended to read as follows:

(1) The secretary may, in the absence of a superior court order, serve on the responsible parent or parents a notice and finding of financial responsibility requiring a responsible parent or parents to appear and show cause in a hearing held by the department why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26-.16.205, including periodic payments to be made in the future for such period of time as the child or children of said responsible parent or parents are in need. Said hearing shall be held pursuant to RCW 74.20A.055, chapter 34.04 RCW, and the rules and regulations of the department, which shall provide for a fair hearing.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. Any responsible parent who objects to all or any part of the notice and finding shall have the right for not more than twenty days from the date of service to request in writing a hearing, which request shall be served upon the department by registered or certified mail or personally. If no such request is made, the notice and finding of responsibility shall become final and the debt created therein shall be subject to collection action as authorized under this chapter. If a timely request is made, the execution of notice and finding of responsibility shall be stayed pending the decision on such hearing. If no timely written request for a hearing has previously been made, the responsible parent may petition the secretary or the secretary's designee at any time for a hearing as provided for in this section upon a showing of good cause for the failure to make a timely request for hearing. The filing of the petition for a hearing after the twenty-day period shall not affect any collection action previously taken under this chapter. The granting of a request for the hearing shall operate

as a stay on any future collection action, pending the final decision of the secretary or the secretary's designee on the hearing. Moneys withheld as a result of collection action in effect at the time of the granting of the request for the hearing shall be delivered to the department and shall be held in trust by the department pending the final order of the secretary or during the pendency of any appeal to the courts made under chapter 34.04 RCW. The department may petition the administrative law judge to set temporary current and future support to be paid beginning with the month in which the petition for an untimely hearing is granted. The administrative law judge shall order payment of temporary current and future support if appropriate in an amount determined pursuant to ((~~the scale of suggested minimum contributions adopted under RCW 74.20.270~~)) the child support schedule adopted under section 5 of this 1988 act. In the event the responsible parent does not make payment of the temporary current and future support as ordered by the hearing examiner, the department may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the order. Temporary current and future support paid, or collected, during the pendency of the hearing or appeal shall be disbursed to the custodial parent or as otherwise appropriate when received by the department. If the final decision of the department, or of the courts on appeal, is that the department has collected from the responsible parent other than temporary current or future support, an amount greater than such parent's past support debt, the department shall promptly refund any such excess amount to such parent.

(3) Hearings may be held in the county of residence or other place convenient to the responsible parent. Any such hearing shall be a "contested case" as defined in RCW 34.04.010. The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future for such period of time as the child or children of the responsible parent are in need, all computable on the basis of the need alleged. The notice and finding shall also include a statement of the name of the recipient or custodian and the name of the child or children for whom need is alleged; and/or a statement of the amount of periodic future support payments as to which financial responsibility is alleged.

(4) The notice and finding shall include a statement that the responsible parent may object to all or any part of the notice and finding, and request a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future.

The notice and finding shall include a statement that, if the responsible parent fails in timely fashion to request a hearing, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the

department and that this debt shall be subject to collection action; a statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

(5) If a hearing is requested, it shall be promptly scheduled, in no more than thirty days. The hearing, including a hearing on prospective modification, shall be conducted by an administrative law judge appointed under chapter 34.12 RCW.

After evidence has been presented at hearings conducted by the administrative law judge, the administrative law judge shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The administrative law judge shall file the original of the initial decision and order, signed by the administrative law judge, with the secretary or the secretary's designee. Copies of the initial decision and order shall be mailed by the administrative law judge to the department and to the appellant by certified mail to the last known address of each party. Within thirty days of filing, either the appellant or the department may file with the secretary or the secretary's designee a written petition for review of the initial decision and order. The petition for review shall set forth in detail the basis for the requested review and shall be mailed by the petitioning party to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any of the following causes materially affecting the substantial rights of the petitioner:

(a) Irregularity in the proceedings of the administrative law judge or adverse party, or any order of the administrative law judge, or abuse of discretion, by which the moving party was prevented from having a fair hearing;

(b) Misconduct of the prevailing party;

(c) Accident or surprise which ordinary prudence could not have guarded against;

(d) Newly discovered evidence, material for the party making the application, which the party could not with reasonable diligence have discovered and produced at the hearing;

(e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law;

(f) Error in mathematical computation;

(g) Error in law occurring at the hearing and objected to at the time by the party making the application;

(h) That the moving party is unable to perform according to the terms of the order without further clarification;

(i) That substantial justice has not been done;

(j) Fraud or misstatement of facts by any witness, which materially affects the debt;

(k) Clerical mistakes in the decision arising from oversight or omission; or

(l) That the decision and order entered because the responsible parent failed to appear at the hearing should be vacated and the matter be remanded for a hearing upon showing of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

In the event no petition for review is made as provided in this subsection by any party, the initial decision and order of the administrative law judge is final as of the date of filing and becomes the decision and order of the secretary. No appeal may be taken therefrom to the courts and the debt created is subject to collection action as authorized by this chapter.

After the receipt of a petition for review, the secretary or the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof, and such additional evidence and argument as the secretary or the secretary's designee may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the administrative law judge for additional evidence or argument. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of the denial and all parties shall forthwith be notified, in writing, of the denial, by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings of fact and conclusions of law as to each contested issue of fact and law. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under this chapter.

(6) The administrative law judge in his or her initial decision, or the secretary or the secretary's designee in review of the initial decision, shall determine the past liability and responsibility, if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. If deviating from the child support schedule adopted under section 5 of this 1988 act in making these determinations, the administrative law judge, and the secretary or the secretary's designee, shall ((~~include in his or her considerations:~~

~~(a) All earnings and income resources of the responsible parent, including real and personal property;~~

~~(b) The earnings potential of the responsible parent;~~

~~(c) The reasonable necessities of the responsible parent;~~

~~(d) The ability of the responsible parent to borrow;~~

~~(e) The needs of the child for whom the support is sought;~~

~~(f) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;~~

~~(g) The existence of other dependents; and~~

~~(h) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent~~)) comply with section 3(4), (5), and (6) of this 1988 act.

If the responsible parent fails to appear at the hearing, upon a showing of valid service, the administrative law judge shall enter an initial decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. Within thirty days of entry of said decision and order, the responsible parent may petition the secretary or the secretary's designee to vacate said decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

(7) The final decision entered pursuant to this section shall be entered as a decision and order and shall limit the support debt to the amounts stated in said decision: PROVIDED, That said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision: PROVIDED FURTHER, That in the absence of a superior court order, either the responsible parent or the department may petition the secretary or his designee for issuance of an order to appear and show cause based on a showing of good cause and material change of circumstances, to require the other party to appear and show cause why the decision previously entered should not be prospectively modified. Said order to appear and show cause together with a copy of the petition and affidavit upon which the order is based shall be served in the manner of a summons in a civil action or by certified mail, return receipt requested, on the other party by the petitioning party. A hearing shall be set not less than fifteen nor more than thirty days from the date of service, unless extended for good cause shown. Prospective modification may be ordered, but only upon a showing of good cause and material change of circumstances. The decision and order for prospective modification entered by the administrative law judge shall be an initial decision subject to review by the secretary or the secretary's designee as provided for in this section.

(8) The administrative law judge, in making the initial decision and the secretary or the secretary's designee in the final decision determining liability and/or future periodic support payments, shall ((~~consider the standards~~

~~promulgated pursuant to RCW 74.20.270 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent~~)) order support payments under the child support schedule adopted under section 5 of this 1988 act.

(9) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by the administrative law judge, or the secretary or secretary's designee.

(10) "Need" as used in this section shall mean the necessary costs of food, clothing, shelter, and medical attendance for the support of a dependent child or children. The amount determined by reference to the ((~~schedule of suggested minimum contributions adopted under RCW 74.20.270, based on the earnings, resources, and property of the alleged responsible parent~~)) child support schedule adopted under section 5 of this 1988 act, shall be a rebuttable presumption of the alleged responsible parent's ability to pay and the need of the family: PROVIDED, That such responsible parent shall be presumed to have no ability to pay child support under this chapter from any income received from aid to families with dependent children, supplemental security income, or continuing general assistance.

Sec. 11. Section 16, chapter 164, Laws of 1971 ex. sess. as last amended by section 8, chapter 276, Laws of 1985 and RCW 74.20A.160 are each amended to read as follows:

With respect to any arrearages on a support debt assessed under ((~~RCW 74.20A.040, 74.20A.055, or 74.20A.270~~)) this chapter, the secretary may at any time consistent with the income, earning capacity and resources of the debtor, set or reset a level and schedule of payments to be paid upon a support debt. The secretary may, upon petition of the debtor providing sufficient evidence of hardship, after consideration of the ((~~standards established in RCW 74.20.270~~)) child support schedule adopted under section 5 of this 1988 act, release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of the responsible parent or parents and minor children in the home of the responsible parent. Nothing in this section shall be construed to require the secretary to take any action which would require collection of less than the obligation for current support required under a superior court order or an administrative order or to take any action which would result in a bar of collection of arrearages from the debtor by reason of the statute of limitations.

NEW SECTION. Sec. 12. A new section is added to chapter 26.10 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 13. A new section is added to chapter 26.21 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 14. A new section is added to chapter 13.32A RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 13.34 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

NEW SECTION. Sec. 16. A new section is added to chapter 26.26 RCW to read as follows:

A determination of child support shall be based upon the child support schedule and standards adopted under section 5 of this act.

*Sec. 17. Section 17, chapter 157, Laws of 1973 1st ex. sess. as amended by section 1, chapter 430, Laws of 1987 and RCW 26.09.170 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and((, except as otherwise provided in subsection (4) of this section,)) only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) ((An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

~~(5)~~)) ***An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.***

(5) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the adopted child support schedule. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances.

***Sec. 17 was partially vetoed, see message at end of chapter.**

Sec. 18. Section 3, chapter 435, Laws of 1987 and RCW 26.23.030 are each amended to read as follows:

There is created a Washington state support registry within the office of support enforcement as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

(1) Account for and disburse all support payments received by the registry;

(2) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;

(3) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry;

(4) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered.

The child support registry shall distribute all moneys received in compliance with 42 U.S.C. Sec. 657. Support received by the office of support enforcement shall be distributed promptly but not later than eight days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances include when: (a) The location of the custodial parent is unknown; (b) the child support debt is in litigation; or (c) the responsible parent or custodial parent cannot be identified. When, following termination of public assistance, the office of support enforcement collects support, all moneys collected up to the maximum of the support due for the period following termination from public assistance shall, to the extent permitted by federal law, be paid to the custodial parent before any distribution to the office of support enforcement under 42 U.S.C. Sec. 657.

This section shall not apply to support collected through intercepting federal tax refunds under 42 U.S.C. Sec. 664. When a responsible parent has more than one support obligation, or a support debt is owed to more than one party, moneys received will be distributed between the parties proportionally, based upon the amount of the support obligation and/or support debt owed.

If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and up to ten percent of amounts collected as current support.

Sec. 19. Section 22, chapter 171, Laws of 1979 ex. sess. as amended by section 3, chapter 276, Laws of 1985 and RCW 74.20.330 are each amended to read as follows:

(1) Whenever public assistance is paid under this title, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made. Payment of public assistance under this title operates as an assignment by operation of law.

(2) Upon the recipient's request, the department ((~~may, and under appropriate circumstances~~)) shall((~~,~~)) continue to establish the support obligation and to enforce and collect the support debt ((~~for a period not to exceed three months from the month following the month in which such family ceased~~)) after the family ceases to receive public assistance, and thereafter if a nonassistance request for support enforcement services has been made under RCW 74.20.040 (2) and (3). The department shall distribute all amounts collected in accordance with 42 U.S.C. Sec. 657 and RCW 26.23.030.

Sec. 20. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 31, chapter 435, Laws of 1987 and RCW 74.20A.030 are each amended to read as follows:

The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 74.20A.055.

Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

No collection action shall be taken against parents of children eligible for admission to, or children who have been released from, a state school for the developmentally disabled as defined by chapter 72.33 RCW.

The department may initiate, continue, maintain, or execute action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state, for a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a non-assistance request for support enforcement services has been made under RCW 74.20.040 and RCW 26.23.030.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 12, chapter 206, Laws of 1963, section 369, chapter 141, Laws of 1979 and RCW 74.20.270; and

(2) Section 4, chapter 440, Laws of 1987 (uncodified).

NEW SECTION. Sec. 22. Sections 1 through 7 of this act shall constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 23. Except for sections 4, 8, and 9 of this act, this act shall take effect July 1, 1988. Sections 4 and 8 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. 24. 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, 1988.
Passed the Senate March 4, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to sections 17(1) through (4) Substitute House Bill No. 1465, entitled:

"AN ACT Relating to child support."

Substitute House Bill No. 1465 establishes a statewide schedule for determining child support payments. This legislation is in the best interest of children, for it will result in support payments which more closely reflect the cost of raising children.

A veto of section 17(1) through (4), will retain language adopted in 1987 at the request of the Department of Social and Health Services and upon the recommendation of the Governor's Executive Task Force on Support Enforcement. It makes access to court easier for correcting unintended and unforeseen inequities in child support orders. This section was included in the legislation based on a fear that improved access to the courts would result in an unmanageable increase in the number of actions brought to the court. The Office of the Administrator for the Courts has determined that this increase has not occurred in Washington to date or in other states which have had similar laws for a longer time.

With the exception of section 17(1) through (4), Substitute House Bill No. 1465 is approved."

CHAPTER 276

[Second Substitute Senate Bill No. 5378]
PRENATAL TESTING

AN ACT Relating to prenatal testing for heritable and congenital disorders; adding a new chapter to Title 70 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; adding a new section to chapter 70.54 RCW; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that the availability and competent utilization of certain prenatal tests for congenital and heritable disorders is crucial to protect the health of both mothers and infants. The legislature further finds that the public health, safety, and welfare will be protected by promoting the performance of these tests and the obtaining of data on the utilization of these tests.

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

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

(2) "Laboratory" means a private or public agency or organization performing prenatal tests for congenital and heritable disorders.

(3) "Prenatal tests" means any test that predicts congenital or heritable disorders which: (a) As determined by the state board of health can by improper utilization clearly harm or endanger the health, safety, or welfare of the public, and the potential harm is easily recognizable and not remote or dependent upon tenuous argument, and (b) are enumerated by the department by rule.

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

NEW SECTION. Sec. 3. The department shall adopt rules establishing requirements for the reporting and other activities required by this chapter. The department shall adopt rules in accordance with the administrative procedure act, chapter 34.04 RCW. In adopting rules the department shall consult with the prenatal test advisory committee.

NEW SECTION. Sec. 4. (1) The prenatal test advisory committee is formed to advise the department on developing prenatal test reporting rules. The advisory committee shall develop recommendations to address:

(a) Obtaining of data on availability of prenatal tests to all pregnant women without regard to age, race, socio–economic status and geographic location;

(b) Obtaining of data on utilization of prenatal tests by pregnant women in relation to age, race, socio–economic status and geographic location;

(c) Obtaining of data from laboratories performing prenatal tests on volume of tests performed, abnormal test results obtained and fees charged;

(d) Obtaining of data on standardization of prenatal tests offered to pregnant women in regard to laboratory procedures, test result reporting and recommendations for follow–up of abnormal results;

(e) Suggested guidelines to facilitate coordination with existing prenatal testing programs of the department; and

(f) Provision of educational materials to physicians or others licensed to provide prenatal care to women for distribution to women at appropriate times in their pregnancies.

(2) The prenatal test advisory committee shall be appointed by the secretary whose members shall be representative of the following groups:

(a) Obstetricians;

(b) Radiologists;

(c) Medical geneticists;

(d) Pediatricians;

(e) The developmentally disabled; and

(f) Laboratories performing prenatal tests.

(3) The prenatal test advisory committee shall serve at the pleasure of the secretary. Advisory committee members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 5. A new section is added to chapter 70.54 RCW to read as follows:

All persons licensed or certified by the state of Washington to provide prenatal care or to practice medicine shall provide information regarding the use and availability of prenatal tests to all pregnant women in their care within the time limits prescribed by department rules and in accordance with standards established by those rules.

NEW SECTION. Sec. 6. A new section is added to chapter 48.21 RCW to read as follows:

On or after January 1, 1990, every group disability contract entered into or renewed that covers hospital, medical, or surgical expenses on a group basis, and which provides benefits for pregnancy, childbirth, or related medical conditions to enrollees of such groups, shall offer benefits for prenatal diagnosis of congenital disorders of the fetus by means of screening

and diagnostic procedures during pregnancy to such enrollees when those services are determined to be medically necessary by the disability contractor in accord with standards set in rule by the board of health. Every group disability contractor shall communicate the availability of such coverage to all group disability contract holders and to all groups with whom they are negotiating.

NEW SECTION. Sec. 7. A new section is added to chapter 48.44 RCW to read as follows:

On or after January 1, 1990, every group health care services contract entered into or renewed that covers hospital, medical, or surgical expenses on a group basis, and which provides benefits for pregnancy, childbirth, or related medical conditions to enrollees of such groups, shall offer benefits for prenatal diagnosis of congenital disorders of the fetus by means of screening and diagnostic procedures during pregnancy to such enrollees when those services are determined to be medically necessary by the health care service contractor in accord with standards set in rule by the board of health. Every group health care services contractor shall communicate the availability of such coverage to all group health care service contract holders and to all groups with whom they are negotiating.

NEW SECTION. Sec. 8. A new section is added to chapter 48.46 RCW to read as follows:

On or after January 1, 1990, every group health maintenance agreement entered into or renewed that covers hospital, medical, or surgical expenses and which provides benefits for pregnancy, childbirth, or related medical conditions to enrollees of such groups, shall offer benefits for prenatal diagnosis of congenital disorders of the fetus by means of screening and diagnostic procedures during pregnancy to such enrollees when those services are determined to be medically necessary by the health maintenance organization in accord with standards set in rule by the board of health: PROVIDED, That such procedures shall be covered only if rendered directly by the health maintenance organization or upon referral by the health maintenance organization. Every group health maintenance organization shall communicate the availability of such coverage to all groups covered and to all groups with whom they are negotiating.

NEW SECTION. Sec. 9. The carrier or provider of any group disability contract, health care services contract or health maintenance agreement shall not cancel, reduce, limit or otherwise alter or change the coverage provided solely on the basis of the result of any prenatal test.

NEW SECTION. Sec. 10. Section 5 of this act shall take effect December 31, 1989.

NEW SECTION. Sec. 11. Sections 1 through 4 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 12. Sections 1 through 4 of this act shall expire June 30, 1993, unless extended by law for an additional fixed period of time.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 277

[Engrossed Substitute Senate Bill No. 5669]
DIETITIANS AND NUTRITIONISTS

AN ACT Relating to certification of dietitians and nutritionists; reenacting and amending RCW 18.120.020 and 18.130.040; adding a new chapter to Title 18 RCW; prescribing penalties; and making an appropriation.

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

NEW SECTION. Sec. 1. (1) "Dietetics" is the integration and application of scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences in counseling people to achieve and maintain health. Unique functions of dietetics include, but are not limited to:

(a) Assessing individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data for clinical, research, and program planning purposes;

(b) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

(c) Providing nutrition counseling and education as components of preventive, curative, and restorative health care;

(d) Developing, implementing, managing, and evaluating nutrition care systems; and

(e) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(2) "General nutrition services" means the counseling and/or educating of groups or individuals in the selection of food to meet normal nutritional needs for health maintenance, which includes, but is not restricted to:

(a) Assessing the nutritional needs of individuals and groups by planning, organizing, coordinating, and evaluating the nutrition components of community health care services;

(b) Supervising, administering, or teaching normal nutrition in colleges, universities, clinics, group care homes, nursing homes, hospitals, private industry, and group meetings.

(3) "Certified dietitian" means any person certified to practice dietetics under this chapter.

(4) "Certified nutritionist" means any person certified to provide general nutrition services under this chapter.

(5) "Department" means the department of licensing.

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

NEW SECTION. Sec. 2. (1) No persons shall represent themselves as certified dietitians or certified nutritionists unless certified as provided for in this chapter.

(2) Persons represent themselves as certified dietitians or certified nutritionists when any title or any description of services is used which incorporates one or more of the following items or designations: "Certified dietitian," "certified dietician," "certified nutritionist," "D.," "C.D.," or "C.N."

(3) The director may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is certified under this chapter.

NEW SECTION. Sec. 3. (1) An applicant applying for certification as a certified dietitian or certified nutritionist shall file 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 that the candidate has met qualifications set forth below in subsection (2) or (3) of this section.

(2) Any person seeking certification as a "certified dietitian" shall meet the following qualifications:

(a) Be eighteen years of age or older;

(b) Has satisfactorily completed a major course of study in human nutrition, foods and nutrition, dietetics, or food systems management, and has received a baccalaureate or higher degree from a college or university accredited by the Western association of schools and colleges or a similar accreditation agency or colleges and universities approved by the director in rule;

(c) Demonstrates evidence of having successfully completed a planned continuous preprofessional experience in dietetic practice of not less than nine hundred hours under the supervision of a certified dietitian or a registered dietitian or demonstrates completion of a coordinated undergraduate program in dietetics, both of which meet the training criteria established by the director;

(d) Has satisfactorily completed an examination for dietitians administered by a public or private agency or institution recognized by the director as qualified to administer the examination; and

(e) Has satisfactorily completed courses of continuing education as currently established by the director.

(3) An individual may be certified as a certified dietician if he or she provides evidence of meeting criteria for registration on the effective date of this act by the commission on dietetic registration.

(4) Any person seeking certification as a "certified nutritionist" shall meet the following qualifications:

(a) Possess the qualifications required to be a certified dietitian; or

(b) Has received a master's degree or doctorate degree in one of the following subject areas: Human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by the Western association of schools and colleges or a similar accrediting agency or colleges and universities approved by the director in rule.

NEW SECTION. Sec. 4. (1) If the applicant meets the qualifications as outlined in section 3(2) of this act, the director shall confer on such candidates the title certified dietitian.

(2) If the applicant meets the qualifications as outlined in section 3(4) of this act, the director shall confer on such candidates the title certified nutritionist.

(3) The application fee in an amount determined by the director shall accompany the application for certification as a certified dietitian or certified nutritionist.

NEW SECTION. Sec. 5. The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of certificates, unauthorized practices, and the disciplining of certificate holders under this chapter. The director shall be the disciplining authority under this chapter.

NEW SECTION. Sec. 6. The director may certify a person applying for the title "certified dietitian" without examination if such person is licensed or certified as a dietitian in another jurisdiction and if, in the director's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

NEW SECTION. Sec. 7. (1) Every person certified as a certified dietitian or certified nutritionist shall pay a renewal registration fee determined by the director as provided in RCW 43.24.086. The certificate of the person shall be renewed for a period of one year or longer at the discretion of the director.

(2) Any failure to register and pay the annual renewal registration fee shall render the certificate invalid. The certificate shall be reinstated upon: (a) Written application to the director; (b) payment to the state of a penalty fee determined by the director; and (c) payment to the state of all delinquent annual certificate renewal fees.

(3) Any person who fails to renew his or her certification for a period of three years shall not be entitled to renew such certification under this section. Such person, in order to obtain a certification as a certified dietitian or certified nutritionist in this state, shall file a new application under this chapter, along with the required fee, and shall meet all requirements as the director provides.

(4) All fees collected under this section shall be credited to the health professions account as required.

NEW SECTION. Sec. 8. (1) There is created a state advisory committee consisting of five members appointed by the director who shall advise the director concerning the administration of this chapter. Two members of the committee shall be certified dietitians who have been engaged in the practice of dietetics for at least five years immediately preceding their appointments. Two members of the committee shall be certified nutritionists who have been engaged in the provision of general nutrition services for at least five years preceding their appointments. These committee members shall at all times be certified under this chapter, except for the initial members of the committee, who shall fulfill the requirements for certification under this chapter. The remaining member of the committee shall be a member of the public with an interest in the rights of consumers of health services, but who does not have any financial interest in the rendering of health services.

(2) The term of office for committee members is four years. The terms of the first committee members however, shall be staggered to ensure an orderly succession of new committee members thereafter. Terms of office shall expire on December 31. Any committee member may be removed for just cause. The director may appoint a new member to fill any vacancy on the committee for the remainder of the unexpired term. No committee member may serve more than two consecutive terms whether full or partial.

(3) Committee members shall be entitled to be compensated in accordance with RCW 43.03.240 and to be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(4) The committee shall have the authority to annually elect a chairperson and vice-chairperson to direct the meetings of the committee. The committee shall meet at least once each year, and may hold additional meetings as called by the director or the chairperson. Three members of the committee shall constitute a quorum of the committee.

NEW SECTION. Sec. 9. This chapter does not require or prohibit individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization to provide benefits or coverage for services and supplies provided by a person certified under this chapter.

NEW SECTION. Sec. 10. In addition to any other authority provided by law, the director may:

(1) Adopt rules in accordance with chapter 34.04 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

(3) Issue a certificate to an applicant who has met the requirements for certification and deny a certificate to an applicant who does not meet the minimum qualifications;

(4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those

certified under this chapter, to serve as consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and certificate holders;

(6) Conduct a hearing, pursuant to chapter 34.04 RCW, on an appeal of a denial of certification based on the applicant's failure to meet the minimum qualifications for certification;

(7) Investigate alleged violations of this chapter and consumer complaints involving the practice of persons representing themselves as certified dietitians or certified nutritionists;

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

(9) Conduct disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it in accordance with chapter 34.04 RCW;

(10) Set all certification, renewal, and late renewal fees in accordance with RCW 43.24.086; and

(11) Set certification expiration dates and renewal periods for all certifications under this chapter.

NEW SECTION. Sec. 11. Nothing in this 1988 act shall be construed to apply to owners, operators or employees of health food stores provided the owners, operators or employees do not represent themselves to be certified dietitians or certified nutritionists.

Sec. 12. Section 14, chapter 412, Laws of 1987, section 16, chapter 415, Laws of 1987, section 17, chapter 447, Laws of 1987, section 21, chapter 512, Laws of 1987 and RCW 18.120.020 are each reenacted and amended to read as follows:

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

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

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

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession

prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; dietitians and nutritionists certified by chapter 18.— RCW (sections 1 through 11 of this 1988 act); and radiologic technicians under chapter 18.84 RCW.

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

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

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

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

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

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

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

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

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

Sec. 13. Section 1, chapter 150, Laws of 1987, section 15, chapter 412, Laws of 1987, section 17, chapter 415, Laws of 1987, section 18, chapter 447, Laws of 1987, section 22, chapter 512, Laws of 1987 and RCW 18-.130.040 are each reenacted and 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) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists certified under chapter 18.06 RCW;

(viii) Radiologic technologists certified under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW; ((~~and~~))

(x) Persons registered or certified under chapter 18.19 RCW; and

(xi) Dietitians and nutritionists certified under chapter 18.— RCW (sections 1 through 11 of this 1988 act).

(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) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(viii) 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) 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) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The board of practical nursing as established in chapter 18.78 RCW;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The board of nursing as established in chapter 18.88 RCW; and

(xv) 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.

NEW SECTION. Sec. 14. There is appropriated from the health professions account to the department of licensing for the biennium ending June 30, 1989, the sum of seventy thousand one hundred seventy-eight dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 15. Sections 1 through 11 of this act shall constitute a new chapter in Title 18 RCW.

Passed the Senate February 16, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 278

[Substitute Senate Bill No. 6115]
EARLY PARENTING SKILLS

AN ACT Relating to programs for parents and children; amending RCW 43.121.015, 43.121.050, and 43.260.010; adding new sections to chapter 43.121 RCW; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature believes that parents who have developed good early parenting skills provide homes where children are treated with dignity and respect and where closeness and trust among family members provide children with the basis for a productive adult life. The legislature also believes that children raised in this positive atmosphere will develop self esteem and are unlikely to become dependent upon the social service system or to be involved in the criminal justice system. The legislature further believes that teaching parents good early parenting skills can help eliminate physical and emotional abuse of children.

NEW SECTION. Sec. 2. (1) In order to increase the knowledge of early parenting skills of parents in Washington state, voluntary community based programs on early parenting skills shall be established. The council shall fund, within available funds, and monitor community-based early parenting skills programs in at least three geographically balanced areas around the state. Successful programs which the council and the national center on child abuse and neglect have funded or currently fund, may be used as models for the projects.

(2) The early parenting education program shall be designed to serve families with children ranging from infants through three years old and also to serve expectant parents. The projects may include the following:

(a) Education for parents about the physical, mental, and emotional development of children;

(b) Programs to enhance the skills of parents in providing for learning and development of their children;

(c) Shared learning experiences for children and parents;

(d) Activities designed to screen for children's physical, mental, emotional, or behavioral problems that may cause learning problems;

(e) Resources for educational materials which may be borrowed for home use;

(f) Information on related community resources;

(g) Group support which may include counseling for parents under stress;

(h) Emphasis to encourage participation by fathers; or

(i) Other programs or activities consistent with this chapter.

(3) The programs shall be reviewed periodically to provide that the instruction and materials are not racially, culturally, or sexually biased.

(4) The services provided by the projects shall be coordinated with schools and social services provided in the community to avoid duplication of services.

(5) A sliding fee scale shall be utilized at the discretion of the council.

NEW SECTION. Sec. 3. (1) Funding shall be provided, as funds are available, in decreasing amounts over a two-year period, with the goal of having the programs become supported by local communities at the end of a two-year period. State funding may be continued in areas where local funding would be difficult to obtain due to local economic conditions to the extent funding is made available to the council.

(2) The council shall work with the projects in the program to evaluate the results of the projects. The council shall make recommendations on these projects and the program. A project agreeing to develop an evaluation component shall be considered for a three-year funding schedule. A report on the evaluations shall be made available to the legislature at the beginning of the legislative session in 1992.

Sec. 4. Section 2, chapter 351, Laws of 1987 and RCW 43.121.015 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Child" means an unmarried person who is under eighteen years of age.

(2) "Council" means the Washington council for the prevention of child abuse and neglect.

(3) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment.

((~~(3)~~)) (4) "Secondary prevention" means services and programs that identify and assist families under such stress that abuse or neglect is likely or families display symptoms associated with child abuse or neglect.

Sec. 5. Section 5, chapter 4, Laws of 1982 as amended by section 4, chapter 351, Laws of 1987 and RCW 43.121.050 are each amended to read as follows:

To carry out the purposes of this chapter, the council ((~~on child abuse and neglect~~)) may:

(1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of community-based educational and service programs designed to:

(a) Reduce the occurrence of child abuse and neglect; and

(b) Provide for parenting skills which include: Consistency in parenting; providing children with positive discipline that provides firm order without hurting children physically or emotionally; and preserving and nurturing the family unit. Programs to provide these parenting skills may include the following:

(i) Programs to teach positive methods of disciplining children;

(ii) Programs to educate parents about the physical, mental, and emotional development of children;

(iii) Programs to enhance the skills of parents in providing for their children's learning and development; and

(iv) Learning experiences for children and parents to help prepare parents and children for the experiences in school. Contracts also may be awarded for research programs related to primary and secondary prevention of child abuse and neglect, and to develop and strengthen community child abuse and neglect prevention networks. Each contract entered into by the council shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects with continuation based upon goal attainment. Contracts for services to prevent child abuse and child neglect shall be awarded on the basis of probability of success based in part upon sound research data.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with applicable state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) Establish fee schedules to provide for the recipients of services to reimburse the state general fund for the cost of services received.

(5) Adopt its own bylaws.

(6) Adopt rules under chapter 34.04 RCW as necessary to carry out the purposes of this chapter.

Sec. 6. Section 1, chapter 473, Laws of 1987 and RCW 43.260.010 are each amended to read as follows:

(1) There is established the governor's commission on children, referred to in this chapter as the commission.

(2) The commission shall have the following functions:

(a) To develop a long-term children's services strategy for the development of an effective, comprehensive coordinated children's services delivery system that will meet the needs of children in the state. The objective of the strategy shall be to (i) define existing service needs of children in Washington state, utilizing existing studies and data sources where appropriate, (ii) identify the kinds of services needed by children and families to meet a minimum standard and level of physical and mental health and safety, (iii) identify the current level of services available and gaps or overlapping services, and (iv) make recommendations to implement an effective comprehensive service delivery system. The commission shall submit an initial strategy to the appropriate committees of the legislature by October 1, 1988;

(b) In formulating the long-term children's services strategy, the commission shall seek input from providers with expertise in children's mental health, health care including prenatal care, adolescent drug and alcohol treatment, education including early childhood education, nonprofit funding sources, child abuse and neglect, child care, dependency, delinquency and the juvenile justice system, family support services, and representatives from minority communities including the migrant worker community, the black community, the native American community, and the Asian community. The commission shall also consult with the governor, the director of revenue, the office of financial management, the director of community development, the superintendent of public instruction, and the secretary of the department of social and health services;

(c) To consult with the Washington council for the prevention of child abuse and neglect regarding the creation of a state-wide data-base clearinghouse. The commission shall report to the appropriate legislative committees regarding the need for and feasibility of a state-wide clearinghouse. If the commission recommends the creation of a clearinghouse, the report shall include alternative designs for a data-base clearinghouse, estimated costs related to both the startup and maintenance of a clearinghouse, potential housing sites for the clearinghouse and placements for terminal links, and funding sources for the clearinghouse. This clearinghouse shall be concerned with programs and information on parenting education as well as child abuse and neglect prevention programs and information;

(3) The strategy under subsection (2)(a) of this section shall include consideration of:

(a) The identification of ways to reduce overlapping services and to fill in service gaps through shared service provisions;

(b) Methods to increase the effectiveness, participation, and communication among city, county, state, private nonprofit, and private for profit funding sources in defining and funding the service delivery system; and

(c) The identification and recommendation of state funding priorities for prevention and early intervention activities to meet the needs of children and families;

(4) A final report outlining the long-term children's services strategy and recommendations shall be submitted to the appropriate committees of the legislature by January 10, 1989.

NEW SECTION. Sec. 7. Sections 1 through 3 of this act are each added to chapter 43.121 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1988.
Passed the House March 6, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 279

[Substitute Senate Bill No. 6238]

DEPARTMENT OF ECOLOGY AUTHORITY REGARDING THE FEDERAL SAFE DRINKING WATER ACT

AN ACT Relating to the authority to administer selected federal safe drinking water act programs; and amending RCW 43.21A.445.

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

*Sec. 1. Section 4, chapter 270, Laws of 1983 and RCW 43.21A.445 are each amended to read as follows:

The department of ecology, the department of natural resources, the department of social and health services, and the oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on ((~~July 24, 1983~~)) June 19, 1986, contemplated for state participation in administration under the act. ((~~The department of ecology is also authorized to participate in any future federal program established under the federal Safe Drinking Water Act which provides matching funding for planning and implementation of a sole source aquifer protection program.~~))

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of

social and health services and natural resources and the oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject–matter authority under existing state law. The departments of social and health services and natural resources and the oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein.

The state board of health shall adopt drinking water regulations applicable to public water supply systems which are not covered by the federal Safe Drinking Water Act only if necessary to protect public health.

Passed the Senate March 10, 1988.
Passed the House March 10, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to the last paragraph of section 1, Substitute Senate Bill No. 6238, entitled:

"AN ACT Relating to the authority to administer selected federal safe drinking water act programs."

The first part of this Department of Ecology request bill authorizes the Departments of Ecology, Natural Resources, and Social and Health Services and the Gas Conservation Committee to carry out programs of the Federal Safe Drinking Water Act as amended in 1986.

The amendment added to the bill allows the State Board of Health to adopt drinking water regulations for systems not covered under federal law "if necessary" to protect the public health. Narrowly interpreted, this language could result in the state's inability to regulate certain drinking water supply practices. The difficulty in establishing a direct cause–and–effect relationship between each specific practice and larger public health concerns will make it difficult for the State Board of Health to prove that regulations are necessary to protect the public health. With over 5,000 small public water systems in our state not covered by the federal act, I am reluctant to significantly reduce the health regulatory authority and subject the department to legal challenges to prove the public health nexus for each system in court. I would hope motivation for this amendment could be resolved administratively or through legislative language which addresses the specific issue.

I believe the agency has the discretion to adopt appropriate regulations for systems not under federal jurisdiction and is not required to implement the federal regulations unless it independently determines the standards are appropriate for the small systems.

With the exception of the last paragraph of section 1, Substitute Senate Bill No. 6238 is approved."

CHAPTER 280

[Substitute House Bill No. 1673]
OFFICE OF MOBILE HOME AFFAIRS

AN ACT Relating to an office of mobile home affairs; amending RCW 46.70.023 and 59.22.020; adding new sections to chapter 59.22 RCW; and prescribing penalties.

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

*Sec. 1. Section 4, chapter 241, Laws of 1986 and RCW 46.70.023 are each amended to read as follows:

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

(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.

(12) For the purposes of obtaining a license from the department under this chapter, the owner of a mobile home park who sells mobile homes located on mobile home lots within the park shall be eligible to be licensed as a mobile home dealer without meeting the requirements of subsections (1) and (7) of this section regarding an established place of business, furnishing a display area, compliance with applicable zoning and land use ordinances, and

the prohibition against conducting the business in a dwelling house. Such an applicant for a mobile home dealer's license shall comply in all other respects with the requirements of this chapter for licensure of mobile home dealers, including the remaining provisions of subsection (1) of this section.

(13) Nothing in this chapter shall prohibit local government from enforcing the building codes and local government zoning and other land use ordinances or regulations.

(14) Any mobile home park owner who sells mobile homes located on mobile home lots within the park shall be prohibited from coercing, influencing, or interfering with the sale of any mobile home located in the park. Any owner of a mobile home in a park shall have all the rights provided to the owner by the mobile home landlord-tenant act in selling the home.

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

*NEW SECTION. Sec. 2. A new section is added to chapter 59.22 RCW to read as follows:

(1) In order to provide general assistance to mobile home resident organizations, park owners, and landlords and tenants, the department shall establish an office of mobile home affairs which will serve as the coordinating office within state government for matters relating to mobile homes or manufactured housing.

This office will provide an ombudsman service to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents and to provide technical assistance to resident organizations or persons in the process of forming a resident organization pursuant to chapter 59.22 RCW. The office will keep records of its activities in this area.

(2) The department shall establish the mobile home and manufactured housing affairs advisory committee. The mobile home and manufactured housing affairs advisory committee shall be a subcommittee of the state housing advisory committee if the department creates a state housing advisory committee. The committee shall consist of five members appointed by the director of the department of community development. The committee shall be comprised of one representative of mobile home park tenants, one representative of mobile home park owners, and one representative of the public at large, each of whom shall be knowledgeable and have practical experience with the mobile home landlord tenant act, one representative of mobile home manufacturers and one representative of local governments. Only the representatives of the mobile home park tenants, mobile home park owners, and the public at large shall review and advise the office on issues relating to the mobile home landlord tenant act. The director of the department of community development shall appoint the committee chairperson. The entire committee shall advise the office in implementing the provisions of subsection (1) of this section. The members of the committee may receive compensation or reimbursement for travel expenses.

Neither the office nor advisory committee may evaluate, develop, or recommend policies or programs relating to governmental rent control or rent stabilization.

***Sec. 2 was partially vetoed, see message at end of chapter.**

Sec. 3. Section 2, chapter 482, Laws of 1987 and RCW 59.22.020 are each amended to read as follows:

The following definitions shall apply throughout this chapter unless the context clearly requires otherwise:

(1) "Affordable" means that, where feasible, low-income residents should not pay more than thirty percent of their monthly income for housing costs.

(2) "Conversion costs" includes the cost of acquiring the mobile home park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a government agency or lender for the project.

(3) "Department" means the department of community development.

(4) "Fund" means the mobile home park purchase fund created pursuant to RCW 59.22.030.

(5) "Housing costs" means the total cost of owning, occupying, and maintaining a mobile home and a lot or space in a mobile home park.

(6) "Individual interest in a mobile home park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobile home park for a period of not less than either fifteen years or the life of the holder. Individual interests in a mobile home park include, but are not limited to, the following:

(a) Ownership of a lot or space in a mobile home park or subdivision;

(b) A membership or shares in a stock cooperative, or a limited equity housing cooperative; or

(c) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobile home park.

(7) "Low-income resident" means an individual or household who resided in the mobile home park prior to application for a loan pursuant to this chapter and with an annual income at or below eighty percent of the median income for the county of standard metropolitan statistical area of residence. Net worth shall be considered in the calculation of income with the exception of the resident's mobile/manufactured home which is used as their primary residence.

(8) "Low-income spaces" means those spaces in a mobile home park operated by a resident organization which are occupied by low-income residents.

(9) "Mobile home park" means a mobile home park, as defined in RCW 59.20.030(4), or a manufactured home park subdivision as defined by RCW 59.20.030(6) created by the conversion to resident ownership of a mobile home park.

(10) "Resident organization" means a group of mobile home park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobile home park in which they reside and converting the mobile home park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobile home park at the time of application for assistance from the department.

(11) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobile home park which entitles the resident organization to control the operations of the mobile home park for a term of no less than fifteen years, or the ownership of individual interests in a mobile home park, or both.

(12) "Landlord" shall have the same meaning as it does in RCW 59.20.030.

(13) "Manufactured housing" means residences constructed on one or more chassis for transportation, and which bear an insignia issued by a state or federal regulatory agency indicating compliance with all applicable construction standards of the United States department of housing and urban development.

(14) "Mobile home" shall have the same meaning as it does in RCW 46.04.302.

(15) "Mobile home lot" shall have the same meaning as it does in RCW 59.20.030.

(16) "Tenant" means a person who rents a mobile home lot for a term of one month or longer, and owns the mobile home on the lot.

NEW SECTION. Sec. 4. (1) Every landlord shall register by October 1, 1988, with the department of revenue under such rules as that department shall prescribe.

(2) Every landlord shall pay a fee of one dollar per lot per year, and in addition, shall collect from each tenant on January 1 of each year a fee of one dollar per year for each lot rented by the tenant. Both fees shall be remitted by the landlord to the department of revenue under such rules as the department shall prescribe. The fee required by this chapter, to be collected by the landlord, shall be deemed to be held in trust by the landlord until paid to the department of revenue, and any landlord who appropriates or converts the fee collected to his or her own use other than the payment to the department shall be guilty of a gross misdemeanor. The provisions of chapter 82.32 RCW shall apply to the collection and enforcement of this fee.

NEW SECTION. Sec. 5. There is created in the custody of the state treasurer a special account known as the mobile home affairs account. All fees collected pursuant to section 4 of this act shall be placed in that account.

Disbursements from this special account shall be as follows:

(1) For the two-year period beginning July 1, 1988, forty thousand dollars, or so much thereof as may be necessary for costs incurred in registering landlords and collecting fees, and thereafter five thousand dollars per year for that purpose.

(2) All remaining amounts shall be remitted to the department of community development for the purpose of implementing sections 2 and 4 of this act.

NEW SECTION. Sec. 6. Sections 4 and 5 of this act are each added to chapter 59.22 RCW.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to sections 1 and 2(2), Substitute House Bill No. 1673 entitled:

"AN ACT Relating to an office of mobile home affairs."

Substitute House Bill No. 1673 establishes an office of mobile home affairs within the Department of Community Development to coordinate state services related to mobile homes and to provide an ombudsman service. The office is to be supported through a fee on mobile home lots within mobile home parks. A new advisory committee on mobile home and manufactured housing affairs is created. Finally, mobile home park owners who wish to be licensed as mobile home dealers are exempted from certain licensing requirements.

I agree that a point of coordination in state government for mobile home and manufactured housing issues is needed. In light of the limited state resources available to support new programs, I am pleased to see that the potential clients of this service have agreed to support the office through an annual user fee. Last year, the Department of Community Development began collecting information on mobile home issues and providing technical assistance to mobile home park tenants and park owners. Establishment of an office to coordinate these activities is a logical next step.

Section 2(2) would establish a narrowly-focused advisory committee in statute. Boards, commissions, committees, task forces and similar entities have proliferated in this state, and now number over 400. The director of the Department of Community Development has authority to create ad hoc advisory committees as the need arises. This authority makes it unnecessary to create advisory committees in statute.

Section 1 amends the Unfair Motor Vehicle Business Practices Act to exempt mobile home park owners from certain dealer licensing requirements. I am vetoing this section because I support the consumer protection provisions included in the law and required of all dealers. Existing law allows the director of the Department of Licensing to waive place of business requirements if this is warranted. In addition, mobile home park owners are able to sell up to five units each year without applying for a dealer license. This should provide enough flexibility for park owners to continue to provide this invaluable assistance to tenants. Finally, in approving this language, the Legislature has not indicated the reasons one group of dealers should be treated differently from others. Failure to outline this distinction creates the basis for a legal challenge.

With the exception of sections 1 and 2(2), Substitute House Bill No. 1673 is approved."

CHAPTER 281

[Substitute House Bill No. 1652]

PUBLIC FUNDS—AUTHORIZED INVESTMENTS

AN ACT Relating to investment of public funds; amending RCW 48.62.070, 36.57A.130, and 36.17.040; adding a new chapter to Title 39 RCW; adding a new section to chapter 36.29 RCW; adding a new section to chapter 43.19 RCW; 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) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(3) "Money market fund" means a mutual fund the portfolio which consists of only bonds having maturities or demand or tender provisions of not more than one year, managed by an investment advisor who has posted with the risk management office of the department of general administration a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to section 3 (2) or (3) of this act.

(4) "Mutual fund" means a diversified mutual fund registered with the federal securities and exchange commission and which is managed by an investment advisor with assets under management of at least five hundred million dollars and with at least five years' experience in investing in bonds authorized for investment by this chapter and who has posted with the risk management office of the department of general administration a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to section 3(1) of this act.

(5) "State" includes a state, agencies, authorities, and instrumentalities of a state, and public corporations created by a state or agencies, authorities, or instrumentalities of a state.

NEW SECTION. Sec. 2. In addition to any other investment authority granted by law and notwithstanding any provision of law to the contrary, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment, in:

(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment; or

(4) Any investments authorized by law for the treasurer of the state of Washington or any local government of the state of Washington other than a metropolitan municipal corporation but, except as provided in chapter 39-.58 RCW, such investments shall not include certificates of deposit of banks or bank branches not located in the state of Washington.

NEW SECTION. Sec. 3. In addition to any other investment authority granted by law, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment and subject to the arbitrage provisions of section 148 of the federal internal revenue code or similar provision concerning the investment of state and local money and funds, in:

(1) Shares of mutual funds with portfolios consisting of only United States government bonds or United States government guaranteed bonds issued by federal agencies with average maturities less than four years, or bonds described in section 2 (1) or (2) of this act, except that bonds otherwise described in section 2 (1) or (2) of this act shall have one of the four highest credit ratings of a nationally recognized rating agency;

(2) Shares of money market funds with portfolios consisting of only bonds of states and local governments or other issuers authorized by law for investment by local governments, which bonds have at the time of investment one of the two highest credit ratings of a nationally recognized rating agency; or

(3) Shares of money market funds with portfolios consisting of securities otherwise authorized by law for investment by local governments.

Sec. 4. Section 7, chapter 256, Laws of 1979 ex. sess. as amended by section 4, chapter 277, Laws of 1985 and RCW 48.62.070 are each amended to read as follows:

The assets of any organization of local governmental entities that is organized under RCW 48.62.040 or 48.62.035 which is established for the purpose of jointly self-funding or self-insuring may, pursuant to RCW 48-.62.080, be invested only in the following classes of securities and investments:

(1) Savings or time accounts in banks, trust companies, and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the federal deposit insurance corporation;

(2) Accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation;

(3) Investment deposits in banks, trust companies, mutual savings banks, and savings and loan associations, which are doing business in this state, available for investment and secured by collateral in accordance with the provisions of chapter 39.58 RCW;

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

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

(6) Direct and general obligation bonds and warrants of the state of Washington or any other state of the United States;

(7) Direct and general obligation bonds and warrants of any local governmental entity of this state having the power to levy general taxes which are payable from general ad valorem taxes;

(8) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof;

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

(10) Bonds, securities, and obligations which are designated to be authorized security for all public deposits pursuant to RCW 35.58.510, 35-.81.110, 35.82.220, 39.60.030, 39.60.040, and 54.24.120; and

(11) Investments permitted by section 2 of this 1988 act.

NEW SECTION. Sec. 5. A new section is added to chapter 36.29 RCW to read as follows:

The county treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any county funds appropriated and expended for the initial administrative costs of establishing a county investment pool provided in RCW 36.29.022. Any credits or payments to political subdivisions shall be calculated and made in a manner which equitably reflects the differing amounts of the political subdivision's respective deposits in the county investment pool and the

differing periods of time for which the amounts were placed in the county investment pool.

NEW SECTION. Sec. 6. A new section is added to chapter 43.19 RCW to read as follows:

The director of general administration, through the risk management office, shall receive and enforce bonds posted pursuant to section 1 (3) and (4) of this act.

NEW SECTION. Sec. 7. Sections 1, 2, and 3 of this act shall constitute a new chapter in Title 39 RCW.

Sec. 8. Section 23, chapter 270, Laws of 1975 1st ex. sess. as amended by section 1, chapter 151, Laws of 1983 and RCW 36.57A.130 are each amended to read as follows:

The treasurer of the county in which a public transportation benefit area authority is located shall be ex officio treasurer of the authority. In the case of a multicounty public transportation benefit area the county treasurer of the largest component county, by population, shall be the treasurer of the authority. However, the authority, by resolution, ((and upon the approval of the county treasurer,)) may designate some other person having experience in financial or fiscal matters as treasurer of the authority. Such a treasurer shall possess all of the powers, responsibilities, and duties the county treasurer possesses for a public transportation benefit area authority related to investing surplus authority funds. The authority may (and if the treasurer is not a county treasurer, it shall) require a bond with a surety company authorized to do business in the state of Washington in an amount and under the terms and conditions the authority, by resolution, from time to time finds will protect the authority against loss. The premium on any such bond shall be paid by the authority.

All authority funds shall be paid to the treasurer and shall be disbursed by the treasurer only on warrants issued by the county auditor, upon orders or vouchers approved by the authority. However, the authority may, by resolution, designate some person having experience in financial or fiscal matters, other than the county auditor, as the auditor of the authority. Such an auditor shall possess all of the powers, responsibilities, and duties that the county auditor possesses for a public transportation benefit area authority related to creating and maintaining funds, issuing warrants, and maintaining a record of receipts and disbursements.

The treasurer shall establish a "transportation fund," into which shall be paid all authority funds, and the treasurer shall maintain such special accounts as may be created by the authority into which shall be placed all money as the authority may, by resolution, direct.

If the treasurer of the authority is a treasurer of the county, all authority funds shall be deposited with the county depositary under the same restrictions, contracts, and security as provided for county depositaries. If the

treasurer of the authority is some other person, all funds shall be deposited in such bank or banks authorized to do business in this state that have qualified for insured deposits under any federal deposit insurance act as the authority, by resolution, shall designate.

An authority may provide and require a reasonable bond of any other person handling moneys or securities of the authority, but the authority shall pay the premium on the bond.

The county or counties and each city or town which is included in the authority shall contribute such sums towards the expense for maintaining and operating the public transportation system as shall be agreed upon between them.

***Sec. 8 was vetoed, see message at end of chapter.**

Sec. 9. Section 36.17.040, chapter 4, Laws of 1963 and RCW 36.17-.040 are each amended to read as follows:

The salaries of county officers and employees of counties other than counties of the eighth and ninth classes may be paid twice monthly out of the county treasury, and the county auditor, for services rendered from the first to the fifteenth day, inclusive, may, not later than the ((~~twentieth~~)) last day of the month, draw ((~~his~~)) a warrant upon the county treasurer in favor of each of such officers and employees for the amount of salary due him or her, and such auditor, for services rendered from the sixteenth to the last day, inclusive, may similarly draw ((~~his~~)) a warrant, not later than the ((~~fifth~~)) fifteenth day of the following month, and the county ((~~commissioners~~)) legislative authority, with the concurrence of the county auditor, may enter an order on the record journal empowering him or her so to do: PROVIDED, That if the ((~~board of county commissioners do~~)) county legislative authority does not adopt the semimonthly pay plan, ((~~they~~)) it, by resolution, shall designate the first pay period as a draw day. ((~~The draw day period shall be from the first day to the fifteenth day of the month, inclusive.~~)) Not more than forty percent of said earned monthly salary of each such county officer or employee shall be paid to him on the draw day and the payroll deductions of such officer or employee shall not be deducted from the salary to be paid on the draw day. If officers and employees are paid once a month, the draw day shall not be later than the ((~~twentieth~~)) last day of each month. The balance of the earned monthly salary of each such officer or employee shall be paid not later than the ((~~fifth~~)) fifteenth day of the following month.

In counties of eighth and ninth classes salaries shall be paid monthly unless the ((~~commissioners~~)) county legislative authority by resolution adopts the foregoing draw day procedure.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 8, Substitute House Bill No. 1652, entitled:

"AN ACT Relating to investment of public funds."

Section 8 of Substitute House Bill No. 1652 would amend existing law to allow public transportation benefit area authorities to appoint their own treasurers, without prior approval of the county treasurer. Under current law, the county treasurer must approve such an appointment.

I understand that the problem giving rise to this amendment has been resolved, and that there is no statewide concern about the existing approval requirement. Indeed, county treasurers have in most instances granted this authority when asked. In those instances where the authority to appoint a treasurer has been denied, there were reportedly good operational reasons for the denial. As operations improved, authorities were granted the power to hire their own treasurers. The current system seems to work.

Further, from a public policy perspective, it makes sense for the chief financial officer of a county, who is an elected official directly accountable to the citizens, to exercise some control over the appointment of those individuals who will be managing and investing public funds.

With the exception of section 8, Substitute House Bill No. 1652 is approved."

CHAPTER 282

[Engrossed Substitute Senate Bill No. 6316]

DRUG CRIMES—DISTRIBUTION OF FUNDS FROM FORFEITED PERSONAL PROPERTY

AN ACT Relating to the forfeiture of real property from the commercial sale or production of controlled substances and imitation controlled substances where a substantial nexus exists between the commercial production or sale of the substances and the real property and providing for the redistribution of proceeds from the sale of forfeited property; amending RCW 69.50.505; and creating a new section.

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

***NEW SECTION.** Sec. 1. The legislature finds that: Drug offenses and crimes resulting from illegal drug use are destructive to society; the nature of drug trafficking results in many property crimes and crimes of violence; state and local governmental agencies incur immense expenses in the investigation,*

prosecution, adjudication, incarceration, and treatment of drug-related offenders and the compensation of their victims; drug-related offenses are difficult to eradicate because of the profits derived from the criminal activities, which can be invested in legitimate assets and later used for further criminal activities; and the forfeiture of real assets where a substantial nexus exists between the commercial production or sale of the substances and the real property will provide a significant deterrent to crime by removing the profit incentive of drug trafficking, and will provide a revenue source that will partially defray the large costs incurred by government as a result of these crimes. The legislature recognizes that seizure of real property is a very powerful tool and should not be applied in cases in which a manifest injustice would occur as a result of forfeiture of an innocent spouse's community property interest.

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

*Sec. 2. Section 15, chapter 2, Laws of 1983 as last amended by section 9, chapter 124, Laws of 1986 and RCW 69.50.505 are each amended to read as follows:

(a) The following are subject to seizure and forfeiture and no property right exists in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, ((or)) acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW;

(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 or chapter 69.41 or 69.52 RCW;

(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 to transport, or are used, or intended for use, in any manner to facilitate the sale, transfer, or receipt of property described in paragraphs (1) or (2), ((but)) except that:

(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 or chapter 69.41 or 69.52 RCW;

(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)) the owner's knowledge or consent;

(iii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(iv) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW, the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(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 or chapter 69.41 or 69.52 RCW;

(6) All drug paraphernalia; ((and))

(7) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible property, intangible property, proceeds, or assets acquired in whole or in part with proceeds traceable to ((~~such~~)) an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW: 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; and

(8) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection, to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, and other evidence which demonstrates the offender's intent to engage in commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property 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.

(b) Real or personal 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. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until the hearing on the forfeiture is held, whichever is later. Seizure of personal property 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, including any community property interest, of the seizure and intended forfeiture of the seized property. Notice of seizure of real property or of personal property of a value of ten thousand dollars or more shall be by personal service upon the owner. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail 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), or (a)(8) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. However, no real

property may be forfeited pursuant to this section, to the extent of a person's community property interest in the real property, by reason of any act or omission committed or omitted without the person's knowledge or consent.

(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), or (a)(8) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons 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. The court to which the matter is to be removed shall be the district court when such aggregate value is ten thousand dollars or less. 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)) law enforcement agency. 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), or (a)(8) 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) (i) 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. Money remaining after the payment of all expenses shall be distributed as follows:

((~~Fifty~~)) (A) Seventy-five 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 shall be used exclusively for the expansion or improvement of law enforcement services. These services may include the creation of reward funds for the purpose of rewarding informants who supply information leading to the arrest, prosecution and conviction of persons who violate laws relating to controlled substances. Such moneys shall not supplant preexisting funding sources; and

((~~fifty~~)) (B) Twenty-five percent shall be remitted to the state treasurer for deposit in the public safety and education account established in RCW 43.08.250;

(C) If an investigation involves a seizure of moneys and proceeds having an aggregate value of less than five thousand dollars, the moneys and proceeds may be deposited in total in the general fund of the governmental unit of the seizing law enforcement agency and shall be appropriated exclusively for the expansion of narcotics enforcement services. Such moneys shall not supplant preexisting funding sources.

(ii) Money deposited according to this section must be deposited within ninety days of the date of final disposition of either the administrative seizure or the judicial seizure;

(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 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.

(j) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be entered

by the seizing agency in the county auditor's records in the county in which the real property is located.

*Sec. 2 was partially vetoed, see message at end of chapter.

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 March 8, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to sections 1, 2(a) through (e) and (g) through (j), Engrossed Substitute Senate Bill No. 6316 entitled:

"AN ACT Relating to the forfeiture of real property from the commercial sale or production of controlled substances and imitation controlled substances where a substantial nexus exists between the commercial production or sale of the substance and the real property and providing for the redistribution of proceeds from the sale of forfeited property."

The concept and consensus behind this bill was to provide law enforcement officials with an additional tool for seizing some of the financial booty invested in "real property" (land and buildings) which was acquired by illegal drug dealers as a result of, or to further, their activities. Examples might be houses used to grow marijuana products in substantial amounts or amphetamine manufacturing operations. Currently, the immense profits which can be realized from these illegal drug activities are so substantial that they overshadow the risk of apprehension and a prison term. The intention was to attach and forfeit some of the "real property" fruits of this illegal activity in the hope of removing some of the financial benefit.

Law enforcement officials currently have the statutory authority to seize "personal property" which is connected and used in illegal drug trafficking. The goal was to extend this same concept to "real property".

The language which is presented to me in this bill has, after its passage and upon thorough review, received rejection from the law enforcement community. Their analysis is that the bill, because of shifting the burden of proof and a number of other changes which were incorporated both for the existing "personal property" provisions and for the new "real property" provisions, would provide a net loss, rather than a gain, in their efforts to seize property related to illegal drug transactions. Specifically, the law enforcement community has indicated that the new law would effectively hinder their ability to seize personal property under existing statutes as well as making it impossible to seize "real property" except in rare cases.

I would encourage the Legislature and the law enforcement community to work together in the next session to again review this issue and attempt to pass a law which allows law enforcement to continue under existing law for the "personal property" forfeitures while adding new separate provisions for "real property" forfeitures.

It is appropriate to consider different safeguards and procedures for "real property" interests than for "personal property" interests. I believe law enforcement should have the burden of showing that the individuals were engaged in illegal drug transactions and that the property was related to the transactions. However, the individuals involved should have the burden of showing that they are the lawful owners of the property used in any manner to facilitate the illegal drug transaction. Given the large amounts of cash money involved and criminal necessity of hiding the fruits

of their illegal activity, it is an unrealistic burden on law enforcement to prove more than the fact that individuals were criminally involved and that the property was used or acquired by those illegal means.

I have not vetoed the sections related to changing the distribution of funds received for personal property which is forfeited. This part of the bill is contained in section 2(f).

With the exception of sections 1, 2(a) through (e) and (g) through (j), Engrossed Substitute Senate Bill No. 6316 is approved."

CHAPTER 283

[Engrossed Substitute House Bill No. 1701]
SUPPLEMENTAL TRANSPORTATION BUDGET

AN ACT Relating to transportation appropriations; amending section 3, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 7, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 10, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 17, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 18, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 19, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 20, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 22, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 23, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 24, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 25, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 26, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 27, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 28, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 29, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 30, chapter 10, Laws of 1987 1st ex. sess. (uncodified); amending section 39, chapter 10, Laws of 1987 1st ex. sess. (uncodified); adding new sections to chapter 10, Laws of 1987 1st ex. sess. (uncodified); creating new sections; repealing section 55, chapter 10, Laws of 1987 1st ex. sess. (uncodified); repealing section 56, chapter 10, Laws of 1987 1st ex. sess. (uncodified); making appropriations and authorizing expenditures; and declaring an emergency.

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

Sec. 1. Section 3, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE RAIL DEVELOPMENT COMMISSION

Rail Development Account Appropriation ..... $ ((~~300,000~~)) 663,900

The appropriation in this section is subject to the following conditions and limitations: ((~~If House Bill No. 1034 is not enacted by July 1, 1987, the appropriation in this section shall be from the general fund.~~))

(1) $55,000 of the appropriation is the state's share for a study to determine the ridership forecast and financial feasibility of a commuter rail demonstration project in the south corridor of the central Puget Sound region. The commission shall select the appropriate public/private agency to conduct the study and shall have oversight responsibility. State moneys shall be matched in an amount at least equal to the state's share by local jurisdictions.

(2) $25,000 of the appropriation shall be used solely to provide matching funds for federal mass transportation administration (UMTA) discretionary grant moneys.

Sec. 2. Section 7, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PATROL——FIELD OPERATIONS BUREAU

Motor Vehicle Fund——State Patrol Highway Account Appropriation——State	$	94,005,256
Motor Vehicle Fund——State Patrol Highway Account Appropriation——Federal	$	2,733,175
Motor Vehicle Fund Appropriation	$	463,045
Total Appropriation	$	97,201,476

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

(1) The appropriations in this section include $((~~675,000~~)) 525,000 for the sole purpose of providing additional commercial vehicle enforcement officers.

(2) The appropriations in this section include $498,664 for the sole purpose of providing twelve additional traffic troopers, effective January 1, 1989.

(3) The appropriations in this section include $150,000 for the sole purpose of creating a license fraud investigation team. If House Bill No. 1860 is not enacted by June 30, 1988, the state patrol highway account appropriation——state in this section shall be reduced by $150,000.

Sec. 3. Section 10, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING——DRIVER SERVICES

General Fund——Public Safety and Education Account Appropriation	$	3,352,618
Highway Safety Fund Appropriation	$	((~~30,866,231~~)) 30,942,064
Highway Safety Fund——Motorcycle Safety Education Account Appropriation	$	((~~265,014~~)) 610,926
Total Appropriation	$	((~~34,483,863~~)) 34,905,608

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

(1) If House Bill No. 196 is not enacted by July 1, 1987, the highway safety fund appropriation is reduced by $72,686.

(2) The department shall participate in the establishment of uniform rules for all commercial drivers, including special rules for training and

testing of hazardous material drivers in compliance with the federal motor carrier safety act of 1986.

(3) $286,909 is appropriated from the highway safety fund appropriation to implement section 5 of Engrossed Substitute Senate Bill No. 5850, if enacted.

(4) If House Bill No. 1660 is not enacted by June 30, 1988, the highway safety fund——motorcycle safety education account appropriation shall be reduced by $39,300.

(5) If Engrossed Substitute Senate Bill No. 6410 is not enacted by June 30, 1988, the Highway Safety Fund Appropriation shall be reduced by $38,135.

(6) If House Bill No. 1482 is not enacted by June 30, 1988, the Highway Safety Fund Appropriation shall be reduced by $37,698.

Sec. 4. Section 17, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——HIGHWAY CONSTRUCTION——PROGRAM B

Motor Vehicle Fund Appropriation——State	$	57,000,000
Motor Vehicle Fund Appropriation——Federal	$	((~~509,000,000~~)) 497,000,000
Motor Vehicle Fund Appropriation——Local	$	4,000,000
Total Appropriation	$	((~~570,000,000~~)) 558,000,000

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects on the interstate system designated as category "B" under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations:

(1) The motor vehicle fund——state appropriation of $57,000,000 includes $37,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.790, for state matching funds for the construction of SR 90 from SR 5 to SR 405, and $20,000,000 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.

(2) If federal discretionary funds are made available to the state, the motor vehicle fund——state appropriation is increased proportionally to provide matching state funds from the sale of bonds authorized by RCW 47.10.801 and 47.10.790 not to exceed $10,000,000 and it is understood that the department shall seek unanticipated receipts for the federal portion.

(3) The department shall develop a design plan using federal discretionary funds made available under subsection (2) above to develop a design plan, prior to the completion of the I-90 project, that accommodates access

to and from I-90 for those neighborhoods listed in the Washington State Transportation Commission Resolution No. 296; which design is consistent with the existing I-90 design and which can be constructed upon completion of the present I-90 project.

(4) It is further recognized that the department may make use of federal cash flow obligations on interstate construction contracts in order to complete the interstate highway system as expeditiously as possible.

Sec. 5. Section 18, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——HIGHWAY CONSTRUCTION——PROGRAM C

Motor Vehicle Fund Appropriation——State	$	((~~106,000,000~~)) 93,455,000
Motor Vehicle Fund Appropriation——Local	$	2,000,000
Total Appropriation	$	((~~108,000,000~~)) 95,455,000

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects designated as category "C" under RCW 47.05.030. If Senate Bill No. 6464 is enacted, the motor vehicle fund——state appropriation shall be increased by $13,000,000.

(1) The motor vehicle fund——state appropriation will be funded with the proceeds from the sale of bonds authorized in RCW 47.10.801 in the amount of $((~~106,000,000~~)) 93,455,000: PROVIDED, That the transportation commission in consultation with the legislative transportation committee may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

The transportation commission shall adjust its list of category "C" projects to include only those projects that can be accomplished within the moneys provided in this appropriation.

It is the intent of the legislature that no moneys shall be expended on projects that are not included on the transportation commission's ((~~funded~~)) priority list for the 1987-89 biennium. It is further the intent of the legislature that the category "A" and "H" programs take precedence over category "C" projects and that the category "A" and "H" programs be fully funded in the 1989-91 biennium to the exclusion of category "C" projects as required under chapter 47.05 RCW.

It is the intent of the legislature that the department's category C preliminary engineering and right of way expenditures for unfunded list 4 projects shall not exceed $12,000,000.

It is the intent of the legislature that the maximum amount of state motor vehicle funds not required for other purposes be made available for

category "C" program expenditures. If additional moneys become available, deferred funded list 4 category "C" project contracts shall not be awarded by the department without prior consultation with the legislative transportation committee.

No moneys may be expended on list 5 category "C" projects in the 1987-89 biennium.

((~~The department shall identify those amounts which may become available for category "C" expenditures due to underexpenditures of state motor vehicle fund appropriations at the close of the 1985-87 biennium, revenue projections which exceed current estimates, or cost savings due to efficiencies effected in other programs. Amounts so identified shall be included in the department's 1988 supplemental budget request for category "C" expenditures.~~))

(2) Notwithstanding subsection (1) of this section and to the extent that the motor vehicle fund——state receives additional revenues from the sale of department of transportation parcel number 32704447, $455,000 of the motor vehicle fund appropriation——state is provided solely for the construction of a loop ramp as described under program item number 351216A in the transportation commission category "C" program file.

Sec. 6. Section 19, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——CONSTRUCTION MANAGEMENT AND SUPPORT——PROGRAM D

Motor Vehicle Fund Appropriation ..... $ ((~~35,168,228~~)) 34,866,222

The appropriation in this section is subject to the following conditions and limitations:

(1) $3,000,000 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 studies, including a study of the economic feasibility of constructing a bridge across the Port Orchard Passage and a study of the economic feasibility of constructing a bridge across the Columbia River to Oregon, both studies to be conducted jointly by the legislative transportation committee and the department of transportation.

(2) The legislative transportation committee and the department of transportation shall conduct a review of the capital facilities needs study, which review shall be funded from the maintenance program appropriation. The results shall be presented to the 1988 legislature.

(3) If funds are made available to the state through the sale of the Spokane street maintenance site in the city of Seattle, the motor vehicle fund appropriation——state shall be increased by the amount of such proceeds, not to exceed $1,500,000, to be used for the construction of a maintenance facility on property owned by the department at Corson street in the city of Seattle.

Sec. 7. Section 20, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——AERONAUTICS——PROGRAM F

General Fund——Aeronautics Account Appropriation——State ..... $ ((~~2,192,803~~)) 2,377,803

General Fund——Aeronautics Account Appropriation——Federal ..... $ ((~~862,725~~)) 902,460

Total Appropriation ..... $ ((~~3,055,528~~)) 3,280,263

The appropriations in this section are provided for management and support of the aeronautics division, state fund grants to local airports, development and maintenance of a state-wide airport system plan, maintenance of state-owned emergency airports, federal inspections, and the search and rescue program. The aeronautics account——state appropriation contains $100,000 for transfer to the motor vehicle fund as the second of four installments in repayment of the $407,430 advanced to pay the tort settlement in the case of Osibov vs. the state of Washington, Spokane county superior court, Cause No. 239168.

Sec. 8. Section 22, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——ECONOMIC TRAFFIC OPERATION IMPROVEMENTS AND SUPPORT——PROGRAM G

Economic Development Account Appropriation ..... $ ((~~9,000,000~~)) 3,000,000

The appropriation in this section is funded with the proceeds from the sale of bonds authorized by RCW 47.10.801 and is provided for improvements to the state highway system necessitated by planned economic development.

Sec. 9. Section 23, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——BRIDGE REPLACEMENT AND REHABILITATION——PROGRAM H

Motor Vehicle Fund Appropriation——State ..... $ ((~~23,000,000~~)) 22,500,000

Motor Vehicle Fund Appropriation——Federal ..... $ ((~~31,000,000~~)) 27,200,000

Motor Vehicle Fund Appropriation——Local ..... $ 1,000,000

Total Appropriation ..... $ ((~~55,000,000~~)) 50,700,000

The appropriations in this section are provided to preserve the structural and operating integrity of existing state highway bridges.

Sec. 10. Section 24, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——HIGHWAY MAINTENANCE AND OPERATIONS——PROGRAM M

Motor Vehicle Fund Appropriation ..... $ ((~~185,239,165~~)) 180,528,914

The appropriation in this section is subject to the following conditions and limitations:

(1) The department may, after consultation with the legislative transportation committee, transfer motor vehicle funds budgeted for snow and ice control in this section to section 25 of this act to the extent that the plan is underrun.

(2) Appropriated in this section is an amount necessary for the legislative transportation committee and the department of transportation to conduct an independent study of the snow and ice control activity within the department.

Sec. 11. Section 25, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——HIGHWAY MANAGEMENT AND SUPPORT——PROGRAM P

Motor Vehicle Fund Appropriation ..... $ ((~~15,875,977~~)) 16,055,451

The appropriation in this section is subject to the following conditions and limitations:

((~~(1)~~)) The department may, after consultation with the legislative transportation committee, transfer motor vehicle funds budgeted for highway inventories in this section to section 24 of this act to the extent that expenditures for snow and ice control budgeted in section 24 of this act exceeds the plan.

Sec. 12. Section 26, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——COUNTY-CITY PROGRAM——PROGRAM R

Motor Vehicle Fund Appropriation——State	$	1,450,000
Motor Vehicle Fund Appropriation——Federal	$	((~~152,612,528~~)) 151,612,528
Motor Vehicle Fund Appropriation——Local	$	((~~20,065,734~~)) 19,977,219
Total Appropriation	$	((~~174,128,262~~)) 173,039,747

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

(1) The appropriations contain $241,000 of state funds for expenditure in accordance with RCW 47.56.720 (Puget Island–Westport Ferry——Payments for operation and maintenance to Wahkiakum county). If Senate Bill No. 5159 is enacted, the department may request a supplemental appropriation.

(2) The appropriations contain $900,000 of state funds for the guarantee, pursuant to RCW 47.56.712, of the payment of principal of and interest on the Spokane River toll bridge revenue refunding bonds as the bonds become due, but only to the extent that net revenues from the operation of the bridge are insufficient therefor.

(3) The appropriations contain $309,000 of state funds from the proceeds of bonds for Columbia Basin county roads authorized in chapter 121, Laws of 1951; chapter 311, Laws of 1955; and chapter 121, Laws of 1965 for reimbursable expenditures on cooperative projects authorized by state or federal laws.

(4) The appropriations contain $91,612,528 of federal funds and $15,227,923 of local funds for reimbursable expenditures for location, design, right-of-way, construction, and maintenance on the north metro operating base interchange, city streets, county roads, and other nonstate highways.

(5) The appropriations contain $61,000,000 of federal funds and $1,000,000 of local funds for location, design, right-of-way, and construction on state highways which is fully reimbursable((~~: PROVIDED, That if the 1987 legislature fails to enact a fuel tax increase, no new contracts may be awarded for department of transportation project No. 42113H prior to approval by the legislative transportation committee~~)).

(6) The appropriations contain $400,000 of local funds to guarantee bond payments on the Astoria–Megler bridge pursuant to RCW 47.56.646.

(7) The appropriations contain $3,437,811 of local funds for miscellaneous sales and services.

(8) The appropriations contain $6,000,000 of federal funds for construction of defense access roads related to the Everett home port.

Sec. 13. Section 27, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——EXECUTIVE MANAGEMENT AND MANAGEMENT SERVICES——PROGRAM S

General Fund——Aeronautics Account Appropriation	$	9,371
General Fund Appropriation	$	15,194
Motor Vehicle Fund——Puget Sound Capital Construction Account Appropriation	$	217,442
Motor Vehicle Fund——Puget Sound Ferry Operations Account Appropriation	$	459,076
Motor Vehicle Fund Appropriation	$	((~~33,518,175~~)) 31,611,418
Ferry System Fund Appropriation	$	1,071,178
Total Appropriation	$	((~~35,290,436~~)) 33,383,679

The appropriations in this section include $100,000 for the implementation of the joint financial information systems to be utilized by the office of financial management, legislative evaluation and accountability committee, department of transportation, department of information systems, the committees on ways and means of the senate and house of representatives, and the legislative transportation committee.

Sec. 14. Section 28, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——PLANNING, RESEARCH, AND PUBLIC TRANSPORTATION——PROGRAM T

(1) For public transportation and rail programs:

General Fund Appropriation——State	$	((~~576,698~~)) 570,284
General Fund Appropriation——Federal	$	((~~3,767,602~~)) 3,758,745
General Fund Appropriation——Local	$	188,000

(2) For planning and research:

Motor Vehicle Fund Appropriation——State	$	((~~6,280,453~~)) 6,188,743
Motor Vehicle Fund Appropriation——Federal	$	((~~10,802,000~~)) 10,436,457
Total Public Transportation and Planning Appropriation	$	((~~21,614,753~~)) 21,142,229

The appropriations in this section are subject to the following conditions and limitations: The department of transportation may transfer up to $5,000,000 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. If additional federal funds become available to more than fully fund the motor vehicle fund——federal appropriation in this section, the department may transfer up to $3,600,000 from the motor vehicle fund——state appropriation to the motor vehicle fund——federal appropriation.

Sec. 15. Section 29, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——MARINE——PROGRAM W

Motor Vehicle Fund——Puget Sound Capital Construction Account Reappropriation——State	$	3,500,000
Motor Vehicle Fund——Puget Sound Capital Construction Account Appropriation——State	$	((~~61,750,831~~)) 67,000,831
Motor Vehicle Fund——Puget Sound Capital Construction Account Appropriation——Federal	$	8,500,000
Total Appropriation	$	((~~73,750,831~~)) 79,000,831

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation of state funds from the Puget Sound capital construction account contains $5,000,000 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.

(2) ((~~It is the intent of the legislature that the Puget Sound capital construction account appropriation is provided to carry out only the projects presented to the house of representatives and senate transportation committees in the department's 1987-1989 biennial budget request dated February 1987. The department shall revise this list of projects to reconcile the 1985-87 actual expenditures within sixty days of the beginning of the biennium.~~

~~(3)~~)) Prior to the expenditure of any funds budgeted for additional passenger-only vessels and related terminal modifications, the department of transportation shall obtain approval from the legislative transportation committee: PROVIDED, That the marine division shall make application for reimbursement from the federal urban mass transit administration.

(((~~4~~))) (3) Expenditures for propulsion control systems shall be limited to two vessels.

(((~~5~~))) (4) The department of transportation shall provide the legislative transportation committee with a monthly report concerning the status of this program.

(5) $5,000,000 of the Puget Sound capital construction account appropriation is provided for capacity improvements for two M.V. Issaquah class vessels through the addition of second car decks.

(6) $250,000 of the appropriation is provided for improvements to the Anacortes parking facility.

Sec. 16. Section 30, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION——MARINE——PROGRAM X

Motor Vehicle Fund——Puget Sound Ferry

Operations Account Appropriation ..... $ ((~~45,896,956~~)) 45,155,127

Ferry System Fund Appropriation ..... $ ((~~107,092,897~~)) 105,361,963

Total Appropriation ..... $ ((~~152,989,853~~)) 150,517,090

The appropriations in this section are provided for management and support of the marine transportation division of the department of transportation and for the operation and maintenance of the state ferry system.

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

(1) The appropriations are based on the budgeted expenditure of $15,525,251 for vessel operating fuel in the 1987-89 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount shall not be expended. If the actual cost exceeds this amount, it is the intent of the legislature that the department will request a supplemental appropriation.

(2) Prior to the expenditure of any funds budgeted for additional passenger-only service, the department of transportation shall obtain approval from the legislative transportation committee. If the additional passenger-only service is not approved, the funds appropriated in this section for that purpose shall not be expended for any other purpose.

(3) For the period from July 1, 1987, up to the actual implementation date of the 1987–89 biennial salary increase for employees under the jurisdiction of the state personnel board, ((~~none of the appropriations in this section may be expended to effect an~~)) no increases in the hourly wage rates of ferry employees, as ferry employee is defined in RCW 47.64.011(5), shall be included in the base hourly wage rates used for future salary increase calculations.

(4) The appropriation contained in this section provides for ((a)) the compensation of ferry employees, including increases. The expenditures for compensation paid to ferry employees during the 1987–89 biennium shall not exceed $105,210,000 ((~~and~~,)) plus a dollar amount, as prescribed by the office of financial management, which is equal to any insurance benefit increase granted general government employees in excess of $167 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 1989. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "L" (7.2.6.2). Of the $105,210,000 provided for compensation, plus the prescribed insurance benefit increase dollar amount:

(a) A maximum of $678,000 may be used to increase ((~~salary~~)) compensation costs, effective January 1, 1988((~~, for the 1987–88 fiscal year so that the June 30, 1988, hourly salary rate increase shall not exceed any average hourly salary rate increase granted during the 1987–88 fiscal year; and a maximum of $2,145,000 may be used to increase salary costs, effective January 1, 1989, for the 1988–89 fiscal year so that~~));

(b) The prescribed insurance benefit increase dollar amount may be used to increase compensation costs, effective July 1, 1988;

(c) A maximum of $2,145,000 shall be used to maintain any 1987–88 compensation increase and may be used to increase compensation costs, effective January 1, 1989.

In no event may the June 30, 1988, hourly salary rate increase exceed any average hourly salary rate increase granted during the 1987–88 fiscal year.

In no event may the June 30, 1989, hourly salary rate increase ((~~shall not~~)) exceed any ((~~average hourly~~)) salary rate increase granted during the 1988–89 fiscal year.

(5) To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985–87 biennium, employees will not be required to absorb a further offset except to the extent the differential between employer contributions for

those employees and all other state general government employees increases during the 1987–89 biennium. If the differential increases or the 1985–87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985–87 shortage in the required offset.

(6) The department of transportation shall provide the legislative transportation committee with a monthly report concerning the status of this program.

Sec. 17. Section 39, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

The motor vehicle fund revenues are received at a relatively even flow throughout the year. Expenditures exceed the revenue during the accelerated summer and fall highway construction season, creating a negative cash balance during the heavy construction season. Negative cash balances also may result from the use of state funds to finance federal advance construction projects prior to conversion to federal funding. The legislature recognizes that the department of transportation may require interfund loans or other short-term financing to meet temporary seasonal cash requirements and additional cash requirements to fund federal advance construction projects.

NEW SECTION. Sec. 18. A new section is added to chapter 10, Laws of 1987 1st ex. sess. to read as follows:

The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

NEW SECTION. Sec. 19. A new section is added to chapter 10, Laws of 1987 1st ex. sess. to read as follows:

With respect to the department of transportation appropriations for highway construction in programs A, B, C, and H, it is recognized that expenditures for transit benefit projects are approximately $150,000,000 of state and federal funds, of which significant portions pertain to construction on I-90. Transit benefit projects are those which construct or improve high-occupancy vehicle lanes, surveillance control and driver information systems, park-and-ride lots, flyer stops, and park-and-pool lots.

NEW SECTION. Sec. 20. A new section is added to chapter 10, Laws of 1987 1st ex. sess. to read as follows:

FOR THE WASHINGTON STATE PATROL

Dormitory facility at Washington State Patrol Training Academy (90-2-010)

	Reappropriation	Appropriation
Public Safety and Education Acct		673,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		673,000

NEW SECTION. Sec. 21. A new section is added to chapter 10, Laws of 1987 1st ex. sess. to read as follows:

FOR THE WASHINGTON STATE PATROL

Emergency vehicle operation course: Phase II (91-3-011)

	Reappropriation	Appropriation
Public Safety and Education Acct		1,107,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		1,107,000

NEW SECTION. Sec. 22. A new section is added to chapter 10, Laws of 1987 1st ex. sess. to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Public Safety and Education Account Appropriation	$	75,000
General Fund——State Appropriation	$	15,000
Public Safety and Education Account Transfer: For transfer to the trauma care system trust account	$	250,000
General Fund——Aeronautics Account Appropriation——State	$	5,000
Total Appropriation	$	345,000

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

(1) If House Bill No. 1713 is enacted, $250,000 shall be transferred from the public safety and education account appropriation to the trauma care system trust account and is appropriated to implement the provisions of that bill. If House Bill No. 1713 is not enacted by June 30, 1988, the total appropriation shall be reduced by $250,000.

(2) $15,000 of the general fund—state appropriation and $5,000 of the aeronautics account appropriation is provided for a joint office of financial

management/legislative transportation committee study of transportation vehicle and aircraft replacement programs.

(3) $75,000 of the public safety and education account appropriation is provided to study the feasibility of and planning for the possible relocation of the criminal justice training center to the Washington State Patrol Academy at Shelton. The office of financial management shall report its findings and recommendations to the house and senate standing committees on transportation and ways and means on or before December 1, 1988.

NEW SECTION. Sec. 23. A new section is added to chapter 10, Laws of 1987 1st ex. sess. to read as follows:

No moneys from the motor vehicle fund or highway safety fund may be expended under chapter 10, Laws of 1987 1st ex. sess. as amended by this 1988 act for major relocation of the Washington state patrol or the department of licensing.

NEW SECTION. Sec. 24. The department of transportation and the county road administration board shall, by December 31, 1988, jointly provide the legislative transportation committee a report describing the current financial status of county-operated ferry systems. The report shall include recommendations regarding the appropriate level of state support for these transportation services and whether there is sufficient justification to consider transferring responsibilities for operating these systems to the Washington state department of transportation.

NEW SECTION. Sec. 25. The legislative transportation committee shall conduct a study of the impact of transportation tax exemptions on revenue.

***NEW SECTION.** Sec. 26. A joint committee is created to study the state motor vehicle excise tax. The study shall include an historical review of the distribution of the tax revenues, the current distribution of the tax revenues, and an evaluation of the current and historical purposes of the tax revenue distributions. The joint committee shall report its findings, including any recommended changes to the motor vehicle excise tax, to the house and senate standing committees on transportation and ways and means by November 1, 1988.*

The chairpersons of the house transportation committee, the senate transportation committee, the senate ways and means committee, and the house ways and means committee shall each appoint three of its members to serve on the joint committee. The directors of the office of financial management and the department of licensing and the secretary of transportation shall each appoint one employee of their respective departments to serve on the joint committee. The members of the joint committee shall elect a chairperson from the membership of the committee.

**Sec. 27 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 27. Section 55, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is repealed.

NEW SECTION. Sec. 28. Section 56, chapter 10, Laws of 1987 1st ex. sess. (uncodified) is repealed.

NEW SECTION. Sec. 29. 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. 30. 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, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to section 26, Engrossed Substitute House Bill No. 1701 entitled:

"AN ACT Relating to transportation appropriations."

This section creates a committee to study the state motor vehicle excise tax. The same provision was included in Substitute Senate Bill No. 6376, section 2, with the exception that the senate bill included an appropriate sunset date for the committee. I am vetoing this section in order to provide for clarity in the record and to avoid duplicative provisions in the statute.

With the exception of section 26, Engrossed Substitute House Bill No. 1701 is approved."

CHAPTER 284

[Engrossed Second Substitute Senate Bill No. 6235]

WATER POLLUTION CONTROL FACILITIES—CAPITALIZATION GRANTS—WATER POLLUTION CONTROL REVOLVING FUND, AUTHORIZED USE

AN ACT Relating to allowing the state of Washington to receive capitalization grants from the federal government for the state revolving loan fund for financing water pollution control facilities and activities; adding a new chapter to Title 90 RCW; making an appropriation; 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 an

account to receive federal capitalization grants 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.

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

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

(2) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(3) "Fund" means the water-pollution control revolving fund in the custody of the state treasurer.

(4) "Water pollution control facility" or "water pollution control 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, combined sewer overflows, 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 control nonpoint sources of water pollution; (b) to develop and implement a comprehensive management plan for estuaries; and (c) 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, other political subdivision, municipal corporation or 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) "Federal capitalization grants" means grants from the federal government provided by the water quality act of 1987 (P.L. 100-4).

NEW SECTION. Sec. 3. (1) The water pollution control revolving fund is hereby established in the custody of the state treasurer. Moneys in this fund are not subject to legislative appropriation. Moneys in the fund may be spent only in a manner consistent with this chapter.

(2) The water pollution control revolving fund shall consist of:

(a) All capitalization grants provided by the federal government under the federal water quality act of 1987;

(b) All state matching funds appropriated or authorized by the legislature;

(c) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

(d) All repayments of moneys borrowed from the fund;

(e) All interest payments made by borrowers from the fund;

(f) Any other fee or charge levied in conjunction with administration of the fund; and

(g) Any new funds as a result of leveraging.

(3) The state treasurer may invest and reinvest moneys in the water pollution control revolving fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the water pollution control revolving fund.

NEW SECTION. Sec. 4. The department of ecology shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the water quality act of 1987:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized not later then twenty years after project completion;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

(4) The department shall present a progress report on the use of moneys from the fund to the chairs of the ways and means committees of the senate and the house of representatives no later than November 30 of each year. This report shall consist of a list of each loan recipient, a project description, total loan amount, financial arrangement and interest rate, repayment schedule, and source of repayment.

(5) The department may not use the moneys in the water pollution control revolving fund for grants.

NEW SECTION. Sec. 5. Moneys deposited in the water pollution control revolving fund shall be administered by the department of ecology. In administering the fund, the department shall:

(1) Allocate funds for loans in accordance with the annual project priority list in accordance with section 212 of the federal water pollution control act as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in section 319(c) of the federal water pollution control act amendments of 1987 and estuary programs developed under section 320 of that act; and

(7) Comply with provisions of the water quality act of 1987.

NEW SECTION. Sec. 6. Any public body receiving a loan from the fund shall:

(1) Appear on the annual project priority list to be identified for funding under section 212 of the federal water pollution control act amendments of 1987 or be eligible under sections 319 and 320 of that act;

(2) Submit an application to the department;

(3) Establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan; and

(4) Demonstrate to the satisfaction of the department that it has sufficient legal authority to incur the debt for which it is applying.

NEW SECTION. Sec. 7. If a public body defaults on payments due to the fund, the state may withhold any amounts otherwise due to the public body and direct that such funds be applied to the indebtedness and deposited into the account.

NEW SECTION. Sec. 8. The department shall establish by rule policies for establishing loan terms and interest rates for loans made from the fund that assure that the objectives of this chapter are met and that adequate funds are maintained in the fund to meet future needs.

***NEW SECTION.** Sec. 9. (1) There is created the water pollution control loan review committee. The Committee shall convene as often as is necessary to review and approve all loans made from the water pollution control revolving fund prior to issuing any loan.*

(2) The committee shall consist of the two members of each caucus of the House of Representatives and the Senate. The chair and vice-chair of the committee shall be selected by the majority vote of the committee members.

(3) Staff support shall be provided by the department of ecology to assist the committee in reviewing and approving any loan made from the water pollution control revolving fund.

(4) The committee shall take action within sixty days after receiving the proposed project list from the department of ecology. Failure to take action within such time shall be deemed as approval.

**Sec. 9 was vetoed, see message at end of chapter.*

*NEW SECTION. Sec. 10. In administering the fund, the department shall comply with the distribution schedule specified in RCW 70.146.060, except where compliance with such schedule may result in an inability to receive or fully expend all federal funds to which the state is otherwise entitled. In such event the department shall notify the committee of such departure from the distribution schedule.

*Sec. 10 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act shall constitute a new chapter in Title 90 RCW.

NEW SECTION. Sec. 12. (1) In addition to and not in lieu of any other appropriation, the sum of five million dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1989, from the water quality account to the water pollution control revolving fund to provide a match at twenty percent of each federal capitalization grant received by the department of ecology in accordance with congressional appropriations. The department shall transfer money from the water quality account to the water pollution revolving fund at intervals consistent with the timing of deposits of federal capitalization grant money. The amounts transferred are not to exceed the match required for each federal deposit. The total of such transfers during the biennium is not to exceed the amount appropriated in this section.

(2) This is the first year of a six-year program. After the state receives all of the federal money it is entitled to under this program, state matching funds from the water quality account are no longer required. The federal authorization expires at the end of the six-year program.

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.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 10, 1988.
Passed the House March 10, 1988.
Approved by the Governor March 24, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 24, 1988.

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

"I am returning herewith, without my approval as to sections 9 and 10, Engrossed Second Substitute Senate Bill No. 6235, entitled:

"AN ACT Relating to allowing the State of Washington to receive capitalization grants from the federal government for the state revolving loan fund for financing water pollution control facilities and activities."

This bill would establish the water pollution control revolving fund to receive federal capitalization grants, state matching funds and other revenues. This fund would protect the state's surface and underground waters by providing loans to design, construct and improve water pollution control facilities and related activities.

Section 9 would create the water pollution control loan review committee to approve all loans prior to issuance. Technical and administrative criteria for evaluating loan applications are clearly spelled out in federal regulation. Creation of this committee places the Legislature in an administrative role and creates the possibility that loans will be evaluated on criteria other than technical merit. Finally, review of loan applications by the committee could result in slowing down the process. This will reduce local governments' certainty that multi-year construction projects will continue to receive funds.

Section 10 requires the Department of Ecology to follow the water quality account fund distribution schedule as established in RCW 70.146.060 when making loans through the revolving fund. Again, since this fund is utilizing federal moneys, federal law takes precedence in determining eligible projects. This section causes confusion by implying that the state's distribution schedule will be followed.

The water pollution control revolving fund is an important revenue source for financing continued protection of the state's waters for the health, safety, use, enjoyment, and economic benefit of its people.

With the exception of sections 9 and 10, Engrossed Second Substitute Senate Bill No. 6235 is approved."

CHAPTER 285

[Senate Bill No. 6182]

CONTRACTORS—REGISTRATION REQUIREMENTS, SUBSTANTIAL COMPLIANCE

AN ACT Relating to contractors' registration; amending RCW 18.27.080; and reenacting and amending RCW 18.27.030.

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

Sec. 1. Section 3, chapter 77, Laws of 1963 as last amended by section 9, chapter 111, Laws of 1987 and by section 2, chapter 362, Laws of 1987 and RCW 18.27.030 are each reenacted and amended to read as follows:

An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(1) Employer social security number.

(2) Industrial insurance number.

(3) Employment security department number.

(4) State excise tax registration number.

(5) Unified business identifier (UBI) account number may be substituted for the information required by subsections (2), (3), and (4) of this section.

(6) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(7) The name and address of each partner if the applicant be a firm or partnership, or the name and address of the owner if the applicant be an

individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The information contained in such application shall be a matter of public record and open to public inspection.

Registration shall be denied if the applicant has been previously registered as a sole proprietor, partnership or corporation, and was a principal or officer of the corporation, and if the applicant has an unsatisfied final judgment((~~s or summons and complaints not dismissed that were filed pursuant to~~)) in an action based on RCW 18.27.040((~~, and that were~~)) that incurred during a previous registration under this chapter.

Sec. 2. Section 8, chapter 77, Laws of 1963 as amended by section 3, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.080 are each amended to read as follows:

No person engaged in the business or acting in the capacity of a contractor may bring or maintain any action in any court of this state for the collection of compensation for the performance of any work or for breach of any contract for which registration is required under this chapter without alleging and proving that he was a duly registered contractor and held a current and valid certificate of registration at the time he contracted for the performance of such work or entered into such contract. For the purposes of this section, the court shall not find a contractor in substantial compliance with the registration requirements of this chapter unless: (1) The department has on file the information required by RCW 18.27.030; (2) the contractor has a current bond or other security as required by RCW 18.27.040; and (3) the contractor has current insurance as required by RCW 18.27-.050. In determining under this section whether a contractor is in substantial compliance with the registration requirements of this chapter, the court shall take into consideration the length of time during which the contractor did not hold a valid certificate of registration.

Passed the Senate March 7, 1988.
Passed the House March 2, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 286

[Senate Bill No. 6671]

HOUSING TRUST FUND—REVISIONS—REAL ESTATE SALES TAX PENALTIES TO BE DEPOSITED IN THE HOUSING TRUST FUND

AN ACT Relating to housing trust fund administration; amending RCW 43.185.070, 18-.85.310, 18.85.510, and 82.45.100; recodifying RCW 18.85.505 and 18.85.510; and declaring an emergency.

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

Sec. 1. Section 8, chapter 298, Laws of 1986 and RCW 43.185.070 are each amended to read as follows:

(1) During each calendar year in which funds are available for use by the department from the housing trust fund, as prescribed in RCW 43.185-.030, 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 thirty-seven thousand five hundred dollars in the fiscal year ending June 30, 1988, and seventy-five thousand dollars in the fiscal year ending June 30, 1989, and not to exceed five percent of annual revenues to the fund thereafter.

(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.

Sec. 2. Section 19, chapter 222, Laws of 1951 as last amended by section 1, chapter 513, Laws of 1987 and RCW 18.85.310 are each amended to read as follows:

(1) Every licensed real estate broker shall keep adequate records of all real estate transactions handled by or through him. The records shall include, but are not limited to, a copy of the earnest money receipt, and an

itemization of the broker's receipts and disbursements with each transaction. These records and all other records hereinafter specified shall be open to inspection by the director or his authorized representatives.

(2) Every real estate broker shall also deliver or cause to be delivered to all parties signing the same, at the time of signing, conformed copies of all earnest money receipts, listing agreements and all other like or similar instruments signed by the parties, including the closing statement.

(3) Every real estate broker shall also keep separate real estate fund accounts in a recognized Washington state depositary authorized to receive funds in which shall be kept separate and apart and physically segregated from licensee broker's own funds, all funds or moneys of clients which are being held by such licensee broker pending the closing of a real estate sale or transaction, or which have been collected for said client and are being held for disbursement for or to said client and such funds shall be deposited not later than the first banking day following receipt thereof.

(4) Separate accounts comprised of clients' funds required to be maintained under this section, with the exception of property management trust accounts, shall be interest-bearing accounts from which withdrawals or transfers can be made without delay, subject only to the notice period which the depository institution is required to reserve by law or regulation.

(5) Every real estate broker shall maintain a pooled interest-bearing escrow account for deposit of client funds, with the exception of property management trust accounts, which are nominal ((~~or short term~~)). As used in this section, a "nominal ((~~or short term~~))" deposit is a deposit ((~~which, if placed in a separate account, would not produce positive net interest income after payment of bank fees, or other institution fees, and other administrative expenses~~)) of not more than five thousand dollars.

The interest accruing on this account, net of any reasonable ((~~transaction costs~~)) and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. An agent may, but shall not be required to, notify the client of the intended use of such funds.

(6) All client funds not required to be deposited in the account specified in subsection (5) of this section shall be deposited in:

(a) A separate interest-bearing trust account for the particular client or client's matter on which the interest will be paid to the client; or

(b) ((~~A pooled interest-bearing trust account with subaccounting that will provide for computation of interest earned by each client's funds and the payment thereof to the client~~)) The pooled interest-bearing trust account specified in subsection (5) of this section if the parties to the transaction agree.

The department of licensing shall promulgate regulations which will serve as guidelines in the choice of an account specified in subsection (5) of this section or an account specified in this subsection.

(7) For an account created under subsection (5) of this section, an agent shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the state treasurer for deposit in the housing trust fund created by RCW 43.185.030 and the real estate commission account created by RCW 18.85.220 as directed by RCW 18.85.315; and

(b) Transmit to the director of community development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing person or firm.

(8) The director shall forward a copy of the reports required by subsection (7) of this section to the department of licensing to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department of licensing.

(9) This section does not relieve any real estate broker from any obligation with respect to the safekeeping of clients' funds.

(10) Any violation by a real estate broker of any of the provisions of this section, or RCW 18.85.230, shall be grounds for revocation of the licenses issued to the broker.

Sec. 3. Section 10, chapter 513, Laws of 1987 and RCW 18.85.510 are each amended to read as follows:

The broker's trust account board shall review grant and loan applications placed before it by the director for final approval pursuant to RCW 43.185.—— (RCW 18.85.505 as recodified by section 4 of this 1988 act).

The decisions of the board shall be subject to the provisions of RCW 43.185.050, 43.185.060, and 43.185.070 with regard to eligible activities, eligible recipients, and criteria for evaluation.

The broker's trust account board shall serve in an advisory capacity to the real estate commission with regard to licensee education programs established pursuant to RCW 18.85.040 and 18.85.220.

NEW SECTION. Sec. 4. RCW 18.85.505 and 18.85.510 are each recodified in chapter 43.185 RCW.

Sec. 5. Section 2, chapter 167, Laws of 1981 as amended by section 1, chapter 176, Laws of 1982 and RCW 82.45.100 are each amended to read as follows:

(1) The tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer within thirty days of the date due, there shall be assessed a penalty of five percent of the amount of the tax; if the tax is not received within sixty days of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within ninety days of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable under this chapter, ((a)) an additional penalty of fifty percent of the additional tax found to be due shall be added.

(((3))) (4) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer or a failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer.

(5) Penalties collected pursuant to subsection (2) of this section shall be deposited in the housing trust fund as described in chapter 43.185 RCW.

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

Passed the Senate March 9, 1988.
Passed the House March 3, 1988.
Approved by the Governor March 24, 1988.
Filed in Office of Secretary of State March 24, 1988.

CHAPTER 287

[Substitute House Bill No. 1883]

VEHICLE DEALERS—REGULATION REVISED

AN ACT Relating to vehicle dealer regulation; and amending RCW 46.70.011, 46.70.021, and 46.70.041.

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

Sec. 1. Section 3, chapter 11, Laws of 1979 as last amended by section 2, chapter 241, Laws of 1986 and RCW 46.70.011 are each amended to read as follows:

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of

a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

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

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

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

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

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

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

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

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

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

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

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

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

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

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

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

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

Sec. 2. Section 4, chapter 74, Laws of 1967 ex. sess. as last amended by section 3, chapter 241, Laws of 1986 and RCW 46.70.021 are each amended to read as follows:

It is unlawful for any person, firm, or association to act as a vehicle dealer or vehicle manufacturer, to engage in business as such, serve in the capacity of such, advertise himself, 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, 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. Nothing in this chapter prohibits financial institutions from cooperating with vehicle dealers licensed under this chapter in dealer sales or leases. However, financial institutions shall not broker vehicles and cooperation is limited to organizing, promoting, and financing of such dealer sales or leases.

Sec. 3. Section 6, chapter 74, Laws of 1967 ex. sess. as last amended by section 8, chapter 241, Laws of 1986 and RCW 46.70.041 are each amended to read as follows:

(1) Every application for a vehicle dealer license shall contain the following information to the extent 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 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;

(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;

(h) The names and addresses of each manufacturer from whom the applicant has received a franchise;

(i) Whether the applicant intends to sell used vehicles, and if so, whether he has space available for servicing and repairs;

(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's principal place of business and each subagency business location in the state of Washington 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 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;

(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. This requirement applies ((~~only~~)) to applicants seeking to sell, to exchange, to list, to offer, to lease with an option to purchase, to broker, to auction, ((~~to solicit, or~~)) to advertise, or to solicit or otherwise negotiate or arrange for the sale of new or current-model vehicles with factory or distributor warranties;

(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 or services for compensation of any kind that bring together potential buyers and sellers, and which classification or classifications the dealer wishes to be designated as;

(m) Any other information the department may reasonably require.

(2) If the applicant is a manufacturer 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. 3 was vetoed, see message at end of chapter.

Passed the House March 9, 1988.
Passed the Senate March 5, 1988.
Approved by the Governor March 25, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 25, 1988.

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

"I am returning herewith, without my approval as to section 3, Substitute House Bill No. 1883, entitled:

"AN ACT Relating to vehicle dealer regulation."

This bill was presented to the Legislature to amend a 1986 exemption in the statute which allowed financial institutions to sell vehicles. Prior to this 1986 amendment, financial institutions had been authorized to sell only vehicles which had been foreclosed upon or repossessed. Sections 1 and 2 of this Act amend the prior law and prohibit financial institutions from brokering vehicles. Apparently, the concern was that some financial institutions were brokering vehicles which resulted in cars being sold that were not under the new Washington State "lemon law," even though new car warranties were provided.

Section 3, however, would inadvertently prohibit leasing companies and new car dealers who wish to lease other makes of cars outside their franchise agreements from leasing those new cars with an option to purchase. These leasing companies would not be able to meet the requirements of having a "current service agreement with a manufacturer, or distributor of a foreign manufacture." If the law was signed as written, the leasing operations would cease. This would reduce competition in the new car marketplace and harm the consuming public.

In addition, section 3 would prohibit the practice of "buyer's agents." Typically, "buyer's agents" are employed by consumers, not dealers, to negotiate car purchases on behalf of the consumer. This practice provides a consumer service of shopping and negotiating a car purchase at a competitive price. Further, the Executive has no record of consumers being harmed from the activities of buyer's agents employed by the consumer. At this point, it does not appear that this practice places the consumer at any disadvantage relative to the "lemon law" or warranty provisions allowed under state and federal law. This business provides a consumer option for those interested in paying for the service.

With the exception of section 3, Substitute House Bill No. 1883 is approved."

CHAPTER 288

[House Bill No. 1515]

SUNSET REVISIONS—ADMINISTRATIVE PROCEDURE ACT REVISED

AN ACT Relating to state government; amending RCW 43.131.215, 43.131.216, 43.131.301, 43.131.302, 43.131.303, 43.131.304, 43.131.323, 43.131.327, 43.131.328, 43.131.329, 43.131.330, 43.131.331, 43.131.332, 43.131.333, 43.131.334, 34.04.010, 34.04.940, 34.04.150, 34.04.930, 34.04.050, 34.04.020, 34.04.080, 34.04.045, 34.04.060, 34.04.048, 34.04.027, 34.04.030, 34.04.040, 34.04.055, 34.04.057, 34.04.058, 34.04.170, 34.04.090, 34.04.105, 34.04.100, 34.04.133, 34.04.135, 34.04.140, 34.04.070, 34.04.130, 34.04.210, 34.04.220, 34.04.230, 34.04.240, 34.04.250, 34.04.260, and 42.17.260; adding a new section to chapter 38.16 RCW; creating a new chapter in Title 34 RCW; creating new sections; recodifying sections; repealing RCW 43.117.910, 28B.19.010, 28B.19.020, 28B.19.030, 28B.19.033, 28B.19.037, 28B.19.040,

28B.19.050, 28B.19.060, 28B.19.070, 28B.19.073, 28B.19.077, 28B.19.080, 28B.19.090, 28B.19.100, 28B.19.110, 28B.19.120, 28B.19.130, 28B.19.140, 28B.19.150, 28B.19.160, 28B.19.163, 28B.19.165, 28B.19.168, 28B.19.200, 28B.19.210, 34.04.022, 34.04.025, 34.04.026, 34.04.052, 34.04.090, 34.04.110, 34.04.120, 34.04.270, 34.04.280, 34.04.290, 34.04.900, 34.04.901, 34.04.910, 34.04.920, 34.04.921, and 34.04.931; repealing section 19, chapter 57, Laws of 1971 ex. sess. (uncodified); repealing section 22, chapter 57, Laws of 1971 ex. sess. (uncodified); and providing an effective date.

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

PART I
ASIAN-AMERICAN AFFAIRS COMMISSION

Sec. 1. Section 34, chapter 99, Laws of 1979 as last amended by section 1, chapter 270, Laws of 1986 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, ((~~1989~~)) 1996, as provided in RCW 43.131.216.

Sec. 2. Section 76, chapter 99, Laws of 1979 as last amended by section 2, chapter 270, Laws of 1986 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, ((~~1990~~)) 1997:

(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; and

(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.~~))

NEW SECTION. Sec. 3. 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 are each repealed.

PART II
NURSING HOME ADVISORY COUNCIL

Sec. 4. Section 24, chapter 197, Laws of 1983 as amended by section 3, chapter 270, Laws of 1986 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, ((~~1989~~)) 1991, as provided in RCW 43.131.302.

Sec. 5. Section 50, chapter 197, Laws of 1983 as amended by section 4, chapter 270, Laws of 1986 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, ((~~1990~~)) 1992:

(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.

PART III
EMERGENCY MEDICAL SERVICES COMMITTEE

Sec. 6. Section 25, chapter 197, Laws of 1983 as amended by section 5, chapter 270, Laws of 1986 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, ((~~1989~~)) 1991, as provided in RCW 43.131.304.

Sec. 7. Section 51, chapter 197, Laws of 1983 as amended by section 6, chapter 270, Laws of 1986 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, ((~~1990~~)) 1992:

(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., section 3, chapter 214, Laws of 1987 and RCW 18.73.050.

PART IV
EXAMINING BOARD OF PSYCHOLOGY

Sec. 8. Section 94, chapter 279, Laws of 1984 as last amended by section 11, chapter 27, Laws of 1986 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, ((~~1992~~)) 1994.

PART V
HUMAN RIGHTS COMMISSION

Sec. 9. Section 31, chapter 185, Laws of 1985 and RCW 43.131.327 are each amended to read as follows:

The human rights commission and its powers and duties shall be terminated on June 30, ((~~1989~~)) 1996, as provided in RCW 43.131.328.

Sec. 10. Section 32, chapter 185, Laws of 1985 and RCW 43.131.328 are each amended to read as follows:

The following acts or parts of acts as now existing or hereafter amended are each repealed, effective June 30, ((~~1990~~)) 1997:

(1) Section 2, chapter 270, Laws of 1955, section 5, chapter 37, Laws of 1957, section 9, chapter 338, Laws of 1981, section 3, chapter 185, Laws of 1985 and RCW 49.60.050;

(2) Section 2, chapter 52, Laws of 1971 ex. sess. and RCW 49.60.051;

(3) Section 3, chapter 270, Laws of 1955, section 4, chapter 185, Laws of 1985 and RCW 49.60.060;

(4) Section 4, chapter 270, Laws of 1955, section 145, chapter 34, Laws of 1975-'76 2nd ex. sess., section 98, chapter 287, Laws of 1984, section 5, chapter 185, Laws of 1985 and RCW 49.60.070;

(5) Section 5, chapter 270, Laws of 1955, section 6, chapter 185, Laws of 1985 and RCW 49.60.080;

(6) Section 6, chapter 270, Laws of 1955, section 6, chapter 37, Laws of 1957, section 7, chapter 185, Laws of 1985 and RCW 49.60.090;

(7) Section 7, chapter 270, Laws of 1955, section 74, chapter 75, Laws of 1977, section 8, chapter 185, Laws of 1985, section 55, chapter 505, Laws of 1987 and RCW 49.60.100;

(8) Section 5, chapter 183, Laws of 1949, section 9, chapter 185, Laws of 1985 and RCW 49.60.110;

(9) Section 8, chapter 270, Laws of 1955, section 7, chapter 37, Laws of 1957, section 1, chapter 81, Laws of 1971 ex. sess., section 7, chapter 141, Laws of 1973, section 4, chapter 214, Laws of 1973 1st ex. sess., section 10, chapter 185, Laws of 1985 and RCW 49.60.120;

(10) Section 9, chapter 270, Laws of 1955, section 2, chapter 81, Laws of 1971 ex. sess., section 8, chapter 141, Laws of 1973, section 5, chapter 214, Laws of 1973 1st ex. sess., section 146, chapter 34, Laws of 1975-'76 2nd ex. sess., section 11, chapter 185, Laws of 1985 and RCW 49.60.130;

(11) Section 10, chapter 270, Laws of 1955, section 12, chapter 185, Laws of 1985 and RCW 49.60.140;

(12) Section 11, chapter 270, Laws of 1955, section 13, chapter 185, Laws of 1985 and RCW 49.60.150;

(13) Section 12, chapter 270, Laws of 1955, section 14, chapter 185, Laws of 1985 and RCW 49.60.160;

(14) Section 13, chapter 270, Laws of 1955, section 15, chapter 185, Laws of 1985 and RCW 49.60.170;

(15) Section 8, chapter 167, Laws of 1969 ex. sess., section 20, chapter 185, Laws of 1985 and RCW 49.60.226;

(16) Section 15, chapter 270, Laws of 1955, section 16, chapter 37, Laws of 1957, section 21, chapter 185, Laws of 1985 and RCW 49.60.230;

(17) Section 16, chapter 270, Laws of 1955, section 17, chapter 37, Laws of 1957, section 1, chapter 259, Laws of 1981, section 22, chapter 185, Laws of 1985 and RCW 49.60.240;

(18) Section 17, chapter 270, Laws of 1955, section 18, chapter 37, Laws of 1957, section 2, chapter 259, Laws of 1981, section 1, chapter 293, Laws of 1983, section 23, chapter 185, Laws of 1985 and RCW 49.60.250;

(19) Section 21, chapter 37, Laws of 1957, section 118, chapter 81, Laws of 1971, section 3, chapter 259, Laws of 1981, section 24, chapter 185, Laws of 1985 and RCW 49.60.260;

(20) Section 22, chapter 37, Laws of 1957, section 4, chapter 259, Laws of 1981, section 25, chapter 185, Laws of 1985 and RCW 49.60.270;

(21) Section 23, chapter 37, Laws of 1957 and RCW 49.60.280;

(22) Section 10, chapter 183, Laws of 1949, section 26, chapter 37, Laws of 1957, section 4, chapter 100, Laws of 1961, section 26, chapter 185, Laws of 1985 and RCW 49.60.310; and

(23) Section 11, chapter 183, Laws of 1949, section 27, chapter 185, Laws of 1985 and RCW 49.60.320.

PART VI
INTERNATIONAL MARKETING PROGRAM FOR AGRICULTURAL COMMODITIES AND TRADE

Sec. 11. Section 8, chapter 39, Laws of 1985 and RCW 43.131.329 are each amended to read as follows:

The international marketing program for agricultural commodities and trade at Washington State University shall be terminated on June 30, ((~~1990~~)) 1992, as provided in RCW 43.131.330.

Sec. 12. Section 9, chapter 39, Laws of 1985 and RCW 43.131.330 are each amended to read as follows:

The following acts, or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, ((~~1991~~)) 1993:

(1) Section 1, chapter 57, Laws of 1984, section 1, chapter 39, Laws of 1985 and RCW 28B.30.535;

(2) Section 2, chapter 57, Laws of 1984, section 2, chapter 39, Laws of 1985, section 3, chapter 195, Laws of 1987, section 14, chapter 505, Laws of 1987 and RCW 28B.30.537;

(3) Section 3, chapter 57, Laws of 1984, section 3, chapter 39, Laws of 1985 and RCW 28B.30.539;

(4) Section 6, chapter 57, Laws of 1984, section 4, chapter 39, Laws of 1985 and RCW 28B.30.541; and

(5) Section 7, chapter 57, Laws of 1984, section 5, chapter 39, Laws of 1985 and RCW 28B.30.543.

PART VII
CAREER EXECUTIVE PROGRAM

Sec. 13. Section 1, chapter 118, Laws of 1985 and RCW 43.131.331 are each amended to read as follows:

The career executive program under RCW 41.06.430 shall terminate on June 30, ((~~1989~~)) 1993, as provided in RCW 43.131.332.

Sec. 14. Section 2, chapter 118, Laws of 1985 and RCW 43.131.332 are each amended to read as follows:

Section 7, chapter 118, Laws of 1980 and RCW 41.06.430, as now or hereafter amended, are each repealed effective June 30, ((~~1990~~)) 1994.

PART VIII
CENTER FOR INTERNATIONAL TRADE IN FOREST PRODUCTS

Sec. 15. Section 8, chapter 122, Laws of 1985 and RCW 43.131.333 are each amended to read as follows:

The center for international trade in forest products in the college of forest resources at the University of Washington shall be terminated on June 30, ((~~1990~~)) 1992, as provided in RCW 43.131.334.

Sec. 16. Section 9, chapter 122, Laws of 1985 and RCW 43.131.334 are each amended to read as follows:

Sections 1 through 5, chapter 122, Laws of 1985 and chapter 76.56 RCW, as now existing or as hereafter amended, are each repealed, effective June 30, ((~~1991~~)) 1993.

PART IX
WASHINGTON STATE GUARD

NEW SECTION. Sec. 17. A new section is added to chapter 38.16 RCW to read as follows:

To assist the state of Washington in the event of mobilization of state and federal military forces in the state, and notwithstanding other provisions of the state military law and other regulations governing appointment

and promotion of officers and enlisted personnel of the Washington state guard, members of the Washington committee for employer support of the guard and reserve may be appointed to serve in a civil affairs unit of the Washington state guard. The rank shall be determined by the adjutant general.

NEW SECTION. Sec. 18. LEGISLATIVE INTENT. The legislature intends, by enacting this 1988 Administrative Procedure Act, to clarify the existing law of administrative procedure, to achieve greater consistency with other states and the federal government in administrative procedure, and to provide greater public and legislative access to administrative decision making. The legislature intends that to the greatest extent possible and unless this chapter clearly requires otherwise, current agency practices and court decisions interpreting the Administrative Procedure Act in effect before the effective date of this act shall remain in effect. The legislature also intends that the courts should interpret provisions of this chapter consistently with decisions of other courts interpreting similar provisions of other states, the federal government, and model acts.

PART X
GENERAL PROVISIONS

Sec. 101. DEFINITIONS. Section 5, chapter 10, Laws of 1982 and RCW 34.04.010 are each amended to read as follows:

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

(1) "Adjudicative proceedings" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the issuance of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to ((~~adjudicate contested cases~~)) conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law.

(3) "Agency action" means the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the issuance, denial, or suspension of a license, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by eminent domain of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the

sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision of the department of natural resources in the management of public lands, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license.

(10) (a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

(11) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(12) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

(13) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

(14) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

((~~(2)~~)) (15) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to ((~~RCW 34.04.080, as now or hereafter amended~~)) section 203 of this act, ((~~or~~)) (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

~~(((3) "Contested case" means a proceeding before an agency in which an opportunity for a hearing before such agency is required by law or constitutional right prior or subsequent to the determination by the agency of the legal rights, duties, or privileges of specific parties. Contested cases shall also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law or agency rules.~~

~~(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.~~

~~(5) "Licensing" includes the agency process respecting the or modification of a license.~~

~~(6)~~)) (16) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to ((~~RCW 34.04.210~~)) section 601 of this act for the purpose of selectively reviewing existing and proposed rules of state agencies.

(17) "Rule making" means the process for formulation and adoption of a rule.

Sec. 102. SAVINGS——AUTHORITY OF AGENCIES TO COMPLY WITH CHAPTER——EFFECT OF SUBSEQUENT LEGISLATION. Section 24, chapter 237, Laws of 1967 and RCW 34.04.940 are each amended to read as follows:

Nothing in ((~~the Administrative Procedure Act shall~~)) this chapter may be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of ((~~the Administrative Procedure Act~~)) this chapter through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of ((~~the Administrative Procedure Act~~)) this chapter or its applicability to any agency except to the extent that such legislation shall do so expressly.

Sec. 103. EXCLUSIONS FROM CHAPTER OR PARTS OF CHAPTER. Section 15, chapter 234, Laws of 1959 as last amended by section 8, chapter 141, Laws of 1984 and RCW 34.04.150 are each amended to read as follows:

((~~Except as provided under RCW 34.04.290,~~)) (1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of ((~~prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020~~)) clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of ((~~RCW 34.04.090 through 34.04.130~~)) sections 401 through 522 of this act shall not apply ((~~to~~)):

(a) To adjudicative proceedings of the board of industrial insurance appeals ((~~or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply~~));

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing((~~. To the extent they are inconsistent with RCW 80.50.140, the provisions of RCW 34.04.130, 34.04.133, and 34.04.140 shall not apply to review of decisions made under RCW 80.50.100.~~));

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the state personnel board, the higher education personnel board, or the personnel appeals board; or

(e) To the extent they are inconsistent with any provisions of chapter 43.43 RCW((~~, the provisions of this chapter shall not apply to such provisions~~)).

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, sections 401 through 429 of this act do not apply to a review hearing conducted by the board of tax appeals.

(4) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

Sec. 104. OPERATION OF CHAPTER IF IN CONFLICT WITH FEDERAL LAW. Section 19, chapter 234, Laws of 1959 and RCW 34-.04.930 are each amended to read as follows:

If any part of this chapter ((~~shall be~~)) is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, ((~~such~~)) the conflicting part of this chapter is ((~~hereby declared to be~~)) inoperative solely to the extent of ((~~such~~)) the conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.

NEW SECTION. Sec. 105. WAIVER. Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by this chapter.

NEW SECTION. Sec. 106. INFORMAL SETTLEMENTS. Except to the extent precluded by another provision of law and subject to approval by agency order, informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is strongly encouraged. Agencies may establish by rule specific procedures for attempting and executing informal settlement of matters. This section does not require any party or other person to settle a matter.

NEW SECTION. Sec. 107. CONVERSION OF PROCEEDINGS. (1) If it becomes apparent during the course of an adjudicative or rule-making proceeding undertaken pursuant to this chapter that another form of proceeding under this chapter is necessary, is in the public interest, or is more appropriate to resolve issues affecting the participants, on his or her own motion or on the motion of any party, the presiding officer or other official responsible for the original proceeding shall advise the parties of necessary steps for conversion and, if within the official's power, commence the new proceeding. If the agency refuses to convert to another proceeding, that decision is not subject to judicial review. Commencement of the new proceeding shall be accomplished pursuant to the procedural rules of the new proceeding, except that elements already performed need not be repeated.

(2) If appropriate, a new proceeding may be commenced independently of the original proceeding or may replace the original proceeding.

(3) Conversion to a replacement proceeding shall not be undertaken if the rights of any party will be substantially prejudiced.

(4) To the extent feasible the record of the original proceeding shall be included in the record of a replacement proceeding.

(5) The time of commencement of a replacement proceeding shall be considered to be the time of commencement of the original proceeding.

NEW SECTION. Sec. 108. VARIATION FROM TIME LIMITS. (1) An agency may modify time limits established in this chapter only as set forth in this section.

(2) The time limits set forth in this chapter may be modified by rule of the agency or by rule of the chief administrative law judge if:

(a) The agency has an agency head composed of a body of individuals serving part time who do not regularly meet on a schedule that would allow compliance with the time limits of this chapter in the normal course of agency affairs;

(b) The agency does not have a permanent staff to comply with the time limits set forth in this chapter without substantial loss of efficiency and economy; and

(c) The rights of persons dealing with the agency are not substantially impaired.

(3) The time limits set forth in this chapter may be modified by rule if the agency determines that the change is necessary to the performance of its statutory duties. Agency rule may provide for emergency variation when required in a specific case.

(4) Time limits may be changed pursuant to section 104 of this act.

(5) Time limits may be waived pursuant to section 105 of this act.

(6) Any modification in the time limits set forth in this chapter shall be to new time limits that are reasonable under the specific circumstances.

(7) In any rule-making or adjudicative proceeding, any agency whose time limits vary from those set forth in this chapter shall provide reasonable and adequate notice of the pertinent time limits to persons affected. In an adjudicative proceeding, such notice may be given by the presiding or reviewing officer involved in the proceeding. In a rule-making proceeding, the notice may be given in the notice of proposed rule-making.

(8) Two years after the effective date of this section, the chief administrative law judge shall cause a survey to be made of variations by agencies from the time limits set forth in this chapter, and shall submit a written report of the results of the survey to the office of the governor.

PART XI
PUBLIC ACCESS TO AGENCY RULES

Sec. 201. PUBLICATION OF CODE AND REGISTER——REMOVAL OF UNCONSTITUTIONAL RULES——DISTRIBUTION OF REGISTERS AND CODES——COUNTY LAW LIBRARIES——JUDICIAL NOTICE OF RULES. Section 5, chapter 234, Laws of 1959 as last amended by section 7, chapter 32, Laws of 1982 1st ex. sess. and RCW 34.04.050 are each amended to read as follows:

(1) The code reviser shall((~~, as soon as practicable after March 23, 1960, compile and index~~)) cause the Washington Administrative Code to be compiled, indexed by subject, and published. All current, permanently effective rules ((~~adopted by each agency and remaining in effect~~)) of each agency shall be published in the Washington Administrative Code. Compilations shall be supplemented or revised as often as necessary and at least ((~~once every two years~~)) annually in a form compatible with the main compilation.

(2) Subject to the provisions of this chapter, the code reviser shall prescribe a uniform numbering system, form, and style for all proposed and adopted rules.

(3) The code reviser shall publish a register ((~~in which he shall set~~)) setting forth the text of all rules filed during the appropriate register publication period.

(((~~(3)~~))) (4) The code reviser may((~~, in his discretion,~~)) omit from the register or the compilation, rules((~~, the publication of which~~)) that would be unduly cumbersome, expensive, or otherwise inexpedient to publish, if such rules are made available in printed or processed form on application to the adopting agency, and if ((~~such~~)) the register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(((~~(4)~~))) (5) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule((~~, in accordance with the provisions of RCW 34.04.052~~)).

(((~~(5)~~))) (6) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting agency shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or

(b) The adopting agency ceases to exist and the rules are not transferred by statute to a successor agency.

(((~~(6)~~))) (7) Registers and compilations shall be made available, in written form to (a) state elected officials whose offices are created by Article II or III of the state Constitution or by RCW 48.02.010, upon request, (b) to the secretary of the senate and the chief clerk of the house for committee use, as required, but not to exceed the number of standing committees in each body, (c) to county boards of law library trustees and to the Olympia representatives of the Associated Press and the United Press International without request, free of charge, and (d) to other persons at a price fixed by the code reviser.

(((~~(7)~~))) (8) The board of law library trustees of each county shall keep and maintain a complete and current set of registers and compilations for use and inspection as provided in RCW 27.24.060.

(((~~(8)~~))) (9) Judicial notice shall be taken of rules filed and published as provided in ((~~RCW 34.04.040~~)) section 315 of this act and this section.

*Sec. 202. RULES FOR AGENCY PROCEDURE——INDEXES OF OPINIONS AND STATEMENTS. Section 2, chapter 234, Laws of 1959 as last amended by section 13, chapter 67, Laws of 1981 and RCW 34.04.020 are each amended to read as follows:

(1) In addition to other rule-making requirements imposed by law:

(((~~(1)~~))) (a) Each agency shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions((~~: PROVIDED, That~~)). Rules for the conduct of ((~~contested cases~~)) adjudicative proceedings shall be those which are ((~~promulgated~~)) adopted by the chief

administrative law judge ((~~pursuant to RCW 34.04.022, as now or hereafter amended~~)) under section 205 of this act.

(((~~2~~))) (b) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. No person may be required to comply with agency procedure not adopted as a rule as herein required.

(((~~3~~))) (2) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions, and opinions in ((~~contested cases~~)) adjudicative proceedings, interpretive statements, policy statements, and any digest or index to those orders, decisions, ((~~or~~)) opinions, or statements prepared by or for the agency ((~~for its own use~~)).

(3) No agency order, decision, or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection ((~~as herein required~~)). ***A written final order issued after the effective date of this section, may not be relied on as precedent by an agency to the detriment of any person until it has been indexed as required by RCW 42.17.260.*** This ((~~provision~~)) subsection is not applicable in favor of any person who has actual knowledge ((~~thereof~~)) of the order, decision, or opinion. The agency has the burden of proving that knowledge, but may meet that burden by proving that the person has been properly served with a copy of the order.

(4) Each agency that is authorized by law to exercise discretion in deciding individual cases is encouraged to formalize the general principles that may evolve from these decisions by adopting the principles as rules that the agency will follow until they are amended or repealed.

NEW SECTION. Sec. 203. INTERPRETIVE AND POLICY STATEMENTS. (1) If the adoption of rules is not feasible and practicable, an agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only. An agency is encouraged to convert long-standing interpretive and policy statements into rules.

(2) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service.

Sec. 204. DECLARATORY ORDER BY AGENCY——PETITION——COURT REVIEW. Section 8, chapter 234, Laws of 1959 and RCW 34.04.080 are each amended to read as follows:

((~~On petition of any interested~~)) (1) Any person((;)) may petition an agency ((~~may issue~~)) for a declaratory ((~~ruling~~)) order with respect to the applicability to ((~~any person, property, or state of facts of any~~)) specified circumstances of a rule, order, or statute enforceable by ((~~it. A declaratory ruling, if issued after argument and stated to be binding, is binding between the agency and the petitioner on the state of facts alleged, unless it is altered or set aside by a court. Such a ruling is subject to review in the superior court of Thurston county in the manner hereinafter provided for the review of decisions in contested cases. Each agency shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition~~)) the agency. The petition shall set forth facts and reasons on which the petitioner relies to show:

(a) That uncertainty necessitating resolution exists;

(b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion;

(c) That the uncertainty adversely affects the petitioner;

(d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested; and

(e) That the petition complies with any additional requirements established by the agency under subsection (2) of this section.

(2) Each agency may adopt rules that provide for: (a) The form, contents, and filing of petitions for a declaratory order; (b) the procedural rights of persons in relation thereto; and (c) the disposition of those petitions. These rules may include a description of the classes of circumstances in which the agency will not enter a declaratory order and shall be consistent with the public interest and with the general policy of this chapter to facilitate and encourage agencies to provide reliable advice.

(3) Within fifteen days after receipt of a petition for a declaratory order, the agency shall give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person it deems desirable.

(4) Sections 401 through 429 of this act apply to agency proceedings for declaratory orders only to the extent an agency so provides by rule or order.

(5) Within thirty days after receipt of a petition for a declaratory order an agency, in writing, shall do one of the following:

(a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances;

(b) Set the matter for specified proceedings to be held no more than ninety days after receipt of the petition;

(c) Set a specified time no more than ninety days after receipt of the petition by which it will enter a declaratory order; or

(d) Decline to enter a declaratory order, stating the reasons for its action.

(6) The time limits of subsection (5)(b) and (c) of this section may be extended by the agency for good cause.

(7) An agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

(8) A declaratory order has the same status as any other order entered in an agency adjudicative proceeding. Each declaratory order shall contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

NEW SECTION. Sec. 205. MODEL RULES OF PROCEDURE. The chief administrative law judge shall adopt model rules of procedure appropriate for use by as many agencies as possible. The model rules shall deal with all general functions and duties performed in common by the various agencies. Each agency shall adopt as much of the model rules as is reasonable under its circumstances. Any agency adopting a rule of procedure that differs from the model rules shall include in the order of adoption a finding stating the reasons for variance.

PART XII

RULE-MAKING PROCEDURES

NEW SECTION. Sec. 301. SOLICITATION OF COMMENTS BEFORE NOTICE PUBLICATION——RULES COORDINATOR. (1) In addition to seeking information by other methods, an agency may, before publication of a notice of a proposed rule adoption under section 303 of this act, solicit comments from the public on a subject of possible rule making under active consideration within the agency, by causing notice to be published in the state register of the subject matter and indicating where, when, and how persons may comment.

(2) Each agency may appoint committees to comment, before publication of a notice of proposed rule adoption under section 303 of this act, on the subject of a possible rule-making action under active consideration within the agency.

(3) Each agency shall designate a rules coordinator, who shall have knowledge of the subjects of rules being proposed or prepared within the agency for proposal, maintain the records of any such action, and respond to public inquiries about possible or proposed rules and the identity of agency personnel working, reviewing, or commenting on them. The office and mailing address of the rules coordinator shall be published in the state register at the time of designation and in the first issue of each calendar

year thereafter for the duration of the designation. The rules coordinator may be an employee of another agency.

NEW SECTION. Sec. 302. RULE-MAKING DOCKET. (1) Each agency shall maintain a current public rule-making docket. The rule-making docket shall contain a listing of the subject of each rule currently being prepared by the agency for proposal under section 303 of this act, the name and address of agency personnel responsible for the proposal, and an indication of the present status of the proposal.

(2) The rule-making docket shall contain a listing of each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced by publication of a notice of proposed rule adoption under section 303 of this act until it is terminated under section 306(3) of this act.

(3) For each rule-making proceeding, the docket shall indicate all of the following:

(a) The subject of the proposed rule;

(b) A citation to all notices relating to the proceeding that have been published in the state register under section 303 of this act;

(c) The place where written submissions about the proposed rule may be inspected;

(d) The time during which written submissions will be accepted;

(e) The current timetable established for the agency proceeding, including the time and place of any rule-making hearing, the date of the rule's adoption, filing, indexing, publication, and its effective date.

Sec. 303. NOTICE OF PROPOSED RULE——CONTENTS——DISTRIBUTION BY AGENCY——INSTITUTIONS OF HIGHER EDUCATION. Section 1, chapter 84, Laws of 1977 ex. sess. as last amended by section 2, chapter 221, Laws of 1982 and RCW 34.04.045 are each amended to read as follows:

(1) ((~~For the purpose of legislative review of agency rules filed pursuant to this chapter, any proposed new or amendatory rule shall be accompanied by a statement prepared by the adopting agency which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the agency's stationery or a form bearing the agency's name and shall contain, but is not limited to;~~)) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, ((~~containing~~)) a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make; and

(k) A copy of the small business economic impact statement, ((~~where~~)) if applicable.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the statement on file and available for public inspection and shall forward three copies of the notice and the statement to the rules review committee.

(3) No later than three days after its publication in the state register, the agency shall cause a copy of the notice of proposed rule adoption to be mailed to each person who has made a timely request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing individual mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing.

NEW SECTION. Sec. 304. PUBLIC PARTICIPATION IN RULE MAKING. (1) The agency shall make a good faith effort to insure that the information on the proposed rule published pursuant to section 303 of this act accurately reflects the rule to be presented and considered at the oral hearing on the rule. Written comment about a proposed rule, including supporting data, shall be accepted by an agency if received no later than the time and date specified in the notice, or such later time and date established at the rule-making hearing.

(2) The agency shall provide an opportunity for oral comment to be received by the agency in a rule-making hearing.

(3) The agency head, a member of the agency head, or a presiding officer designated by the agency head shall preside at the rule-making hearing. Rule-making hearings shall be open to the public. The agency shall cause a record to be made of the hearing by stenographic, mechanical, or electronic means. Unless the agency head presides or is present at substantially all the hearings, the presiding official shall prepare a memorandum for consideration by the agency head, summarizing the contents of the presentations made at the rule-making hearing. The summarizing memorandum is a public document and shall be made available to any person in accordance with chapter 42.17 RCW.

(4) Rule-making hearings are legislative in character and shall be reasonably conducted by the presiding official to afford interested persons the opportunity to present comment. Rule-making hearings may be continued to a later time and place established on the record without publication of further notice under section 303 of this act.

Sec. 305. PETITION FOR ADOPTION, AMENDMENT, REPEAL OF RULE——AGENCY ACTION. Section 6, chapter 234, Laws of 1959 as amended by section 5, chapter 237, Laws of 1967 and RCW 34.04.060 are each amended to read as follows:

Any ((~~interested~~)) person may petition an agency requesting the ((~~promulgation~~)) adoption, amendment, or repeal of any rule. Each agency ((~~shall~~)) may prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within ((~~thirty~~)) sixty days after submission of a petition, ((~~or at the next meeting of the agency if it does not meet within thirty days,~~)) the agency shall ((~~formally consider the petition and shall within thirty days thereafter~~)) (1) either deny the petition in writing ((~~(~~)), stating its reasons for the denial((~~)~~)), or (2) initiate rule-making proceedings in accordance with ((~~RCW 34.04.025~~)) this chapter.

Sec. 306. WITHDRAWAL OF PROPOSAL——TIME AND MANNER OF ADOPTION. Section 11, chapter 186, Laws of 1980 and RCW 34.04.048 are each amended to read as follows:

(1) A proposed rule may be withdrawn by the proposing agency at any time before adoption. A withdrawn rule may not be adopted unless it is again proposed in accordance with ((~~RCW 34.04.025 as now or hereafter amended~~)) section 303 of this act.

(2) Before adopting a rule, an agency shall consider the written and oral submissions, or any memorandum summarizing oral submissions.

(3) Rules not adopted within one ((~~year~~)) hundred eighty days after publication of the text as last proposed in the register shall be regarded as withdrawn. An agency may not thereafter adopt the text of the rules without filing the text in accordance with ((~~RCW 34.04.025 as now or hereafter amended~~)) section 303 of this act. The code reviser shall give notice of the withdrawal in the register.

(4) An agency may not adopt a rule before the time established in the published notice, or such later time established on the record or by publication in the state register.

NEW SECTION. Sec. 307. VARIANCE BETWEEN PROPOSED AND FINAL RULE. (1) Unless it complies with subsection (3) of this section, an agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. If an agency contemplates making a substantial variance from a proposed rule described in a published notice, it may file a supplemental notice with the code reviser meeting the requirements of section 303 of this act and reopen the proceedings for public comment on the proposed variance, or the agency may reject the proposed rule and commence a new rule-making proceeding to adopt a substantially different rule. If a new rule-making proceeding is commenced, relevant public comment received regarding the initial proposed rule shall be considered in the new proceeding.

(2) The following factors shall be considered in determining whether an adopted rule is substantially different from the proposed rule on which it is based:

(a) The extent to which a reasonable person affected by the adopted rule would have understood that the published proposed rule would affect his or her interests;

(b) The extent to which the subject of the adopted rule or the issues determined in it are substantially different from the subject or issues involved in the published proposed rule; and

(c) The extent to which the effects of the adopted rule differ from the effects of the published proposed rule.

(3) If the agency, without filing a supplemental notice under subsection (1) of this section, adopts a rule that varies in content from the proposed rule, the general subject matter of the adopted rule must remain the same as the proposed rule. The agency shall briefly describe any changes, other than editing changes, and the principal reasons for adopting the changes. The brief description shall be filed with the code reviser together with the order of adoption for publication in the state register. Within sixty days of publication of the adopted rule in the state register, any interested person may petition the agency to amend any portion of the adopted rule that is substantially different from the proposed rule. The petition shall briefly demonstrate how the adopted rule is substantially different from the proposed rule and shall contain the text of the petitioner's proposed amendment. For purposes of the petition, an adopted rule is substantially different if the issues determined in the adopted rule differ from the issues determined in the proposed rule or the anticipated effects of the adopted rule differ from those of the proposed rule. If the petition meets the requirements of this subsection and section 305 of this act, the agency shall initiate

rule-making proceedings upon the proposed amendments within the time provided in section 305 of this act.

Sec. 308. FAILURE TO GIVE TWENTY DAYS NOTICE OF INTENDED ACTION——EFFECT. Section 4, chapter 237, Laws of 1967 and RCW 34.04.027 are each amended to read as follows:

Except for emergency rules adopted under section 309 of this act, when twenty days notice of intended action to adopt, amend, or repeal a rule has not been ((~~filed with the code reviser, as required in RCW 34.04.025~~)) published in the state register, as required by section 303 of this act, the code reviser shall not publish such rule and such rule shall not be effective for any purpose.

Sec. 309. EMERGENCY RULES AND AMENDMENTS. Section 3, chapter 234, Laws of 1959 as last amended by section 4, chapter 324, Laws of 1981 and RCW 34.04.030 are each amended to read as follows:

(1) If ((~~the~~)) an agency for good cause finds:

(a) That immediate adoption ((~~or~~)), amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that ((~~observance of~~)) observing the time requirements of notice and opportunity to ((~~present views on the proposed action~~)) comment upon adoption of a permanent rule would be contrary to the public interest((~~;~~)); or

(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule,

the agency may dispense with ((~~such~~)) those requirements and adopt, amend, or repeal the rule ((~~or amendment as~~)) on an emergency ((~~rule or amendment~~)) basis. The agency's finding and a concise statement of the reasons for its finding shall be incorporated in the order for adoption of the emergency rule or amendment ((~~as~~)) filed with the office of the code reviser under ((~~RCW 34.04.040~~)) section 315 of this act and with the rules review committee.

(2) An emergency rule ((~~or amendment~~)) adopted under this section takes effect upon filing with the code reviser and may not remain in effect for longer than ((~~ninety~~)) one hundred twenty days after filing. Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has published notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.

NEW SECTION. Sec. 310. CONCISE EXPLANATORY STATEMENT. (1) At the time it files an adopted rule with the code reviser or within thirty days thereafter, an agency shall place into the rule-making file

maintained under section 313 of this act a concise explanatory statement about the rule, identifying (a) the agency's reasons for adopting the rule, and (b) a description of any difference between the text of the proposed rule as published in the register and the text of the rule as adopted, other than editing changes, stating the reasons for change.

(2) Upon the request of any interested person within thirty days after adoption of a rule, the agency shall issue a concise statement of the principal reasons for overruling the considerations urged against its adoption.

NEW SECTION. Sec. 311. ORDER ADOPTING RULE, CONTENTS. The order of adoption by which each rule is adopted by an agency shall contain all of the following:

(1) The date the agency adopted the rule;

(2) A concise statement of the purpose of the rule;

(3) A reference to all rules repealed, amended, or suspended by the rule;

(4) A reference to the specific statutory or other authority authorizing adoption of the rule;

(5) Any findings required by any provision of law as a precondition to adoption or effectiveness of the rule; and

(6) The effective date of the rule if other than that specified in section 315(2) of this act.

NEW SECTION. Sec. 312. INCORPORATION BY REFERENCE. An agency may incorporate by reference and without publishing the incorporated matter in full, all or any part of a code, standard, rule, or regulation that has been adopted by an agency of the United States, of this state, or of another state, by a political subdivision of this state, or by a generally recognized organization or association if incorporation of the full text in the agency rules would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in agency rules shall fully identify the incorporated matter. An agency may incorporate by reference such matter in its rules only if the agency, organization, or association originally issuing that matter makes copies readily available to the public. The incorporating agency shall have, maintain, and make available for public inspection a copy of the incorporated matter. The rule must state where copies of the incorporated matter are available.

NEW SECTION. Sec. 313. RULE-MAKING FILE. (1) Each agency shall maintain an official rule-making file for each rule that it (a) proposes by publication in the state register, or (b) adopts. The file and materials incorporated by reference shall be available for public inspection.

(2) The agency rule-making file shall contain all of the following:

(a) Copies of all publications in the state register with respect to the rule or the proceeding upon which the rule is based;

(b) Copies of any portions of the agency's public rule-making docket containing entries relating to the rule or the proceeding on which the rule is based;

(c) All written petitions, requests, submissions, and comments received by the agency and all other written material regarded by the agency as important to adoption of the rule or the proceeding on which the rule is based;

(d) Any official transcript of oral presentations made in the proceeding on which the rule is based or, if not transcribed, any tape recording or stenographic record of them, and any memorandum prepared by a presiding official summarizing the contents of those presentations;

(e) The concise explanatory statement required by section 310 of this act;

(f) All petitions for exceptions to, amendment of, or repeal or suspension of, the rule; and

(g) Any other material placed in the file by the agency.

(3) Internal agency documents are exempt from inclusion in the rule-making file under subsection (2) of this section to the extent they constitute preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific document is not exempt from inclusion when it is publicly cited by an agency in connection with its decision.

(4) Upon judicial review, the file required by this section constitutes the official agency rule-making file with respect to that rule. Unless otherwise required by another provision of law, the official agency rule-making file need not be the exclusive basis for agency action on that rule.

NEW SECTION. Sec. 314. SUBSTANTIAL COMPLIANCE WITH PROCEDURES. No rule proposed after the effective date of this section, is valid unless it is adopted in substantial compliance with sections 301 through 318 of this act. Inadvertent failure to mail notice of a proposed rule adoption to any person as required by section 303(3) of this act does not invalidate a rule. No action based upon this section may be maintained to contest the validity of any rule unless it is commenced within two years after the effective date of the rule.

Sec. 315. RULES FILED WITH CODE REVISER——REGISTER——EFFECTIVE DATES. Section 4, chapter 234, Laws of 1959 as last amended by section 17, chapter 505, Laws of 1987 and RCW 34.04.040 are each amended to read as follows:

(1) Each agency shall file ((~~forthwith~~)) in the office of the code reviser a certified copy of all rules ((~~now in effect and hereafter adopted~~)) it adopts, except ((~~the~~)) for rules contained in tariffs filed with or published by the Washington utilities and transportation commission. The code reviser shall place upon each rule a notation of the time and date of filing and shall keep a permanent register of ((~~such~~)) filed rules open to public inspection.

In filing a rule, each agency shall use the standard form prescribed for this purpose by the code reviser.

(2) Emergency rules adopted under ((~~RCW 34.04.030 shall~~)) section 309 of this act become effective upon filing. All other rules ((~~hereafter adopted shall~~)) become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) A rule may become effective immediately upon its filing with the code reviser or on any subsequent date earlier than that established by subsection (2) of this section, if the agency establishes that effective date in the adopting order and finds that:

(a) Such action is required by the state or federal Constitution, a statute, or court order;

(b) The rule only delays the effective date of another rule that is not yet effective; or

(c) The earlier effective date is necessary because of imminent peril to the public health, safety, or welfare.

The finding and a brief statement of the reasons therefor required by this subsection shall be made a part of the order adopting the rule.

(4) With respect to a rule made effective pursuant to subsection (3) of this section, each agency shall make reasonable efforts to make the effective date known to persons who may be affected by it.

Sec. 316. RULES FOR FILING AND FORM OF RULES AND NOTICES. Section 13, chapter 237, Laws of 1967 and RCW 34.04.055 are each amended to read as follows:

The code reviser may ((~~prescribe regulations~~)) adopt rules for carrying out the provisions of this chapter relating to the filing and publication of rules and notices of intention to adopt rules, including the form and style to be employed by the various agencies in the drafting of such rules and notices.

Sec. 317. STYLE, FORMAT, AND NUMBERING OF RULES——AGENCY COMPLIANCE. Section 14, chapter 237, Laws of 1967 and RCW 34.04.057 are each amended to read as follows:

After the rules of an agency have been published by the code reviser:

(1) All agency orders amending or rescinding such rules, or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington Administrative Code((~~, and~~));

(2) Any subsequent printing or reprinting of such rules shall be printed in the style and format (including the numbering system) of such code; and

(3) Amendments of previously adopted rules shall incorporate any editorial corrections made by the code reviser.

Sec. 318. FORMAT AND STYLE OF RULES AMENDING EXISTING SECTIONS, ADDING NEW SECTIONS——EFFECT OF

FAILURE TO COMPLY. Section 1, chapter 19, Laws of 1977 as amended by section 14, chapter 186, Laws of 1980 and RCW 34.04.058 are each amended to read as follows:

(1) Rules ((~~promulgated~~)) proposed or adopted by an agency pursuant to ((~~RCW 34.04.025 or 34.04.030, as now or hereafter amended, which~~)) this chapter that amend existing sections of the administrative code shall have the words which are amendatory to such existing sections underlined. Any matter to be deleted from an existing section shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. ((~~In the case of~~)) A new section((~~, such~~)) shall be designated "NEW SECTION" in upper case type and such designation shall be underlined, but the complete text of the section shall not be underlined. No rule may be forwarded by any agency to the code reviser, nor may the code reviser accept for filing any rule unless the format of such rule is in compliance with the provisions of this section.

(2) Once the rule has been formally adopted by the agency the code reviser need not, except with regard to the register published pursuant to ((~~RCW 34.04.050(2)~~)) section 201(3) of this act, include the items enumerated in subsection (1) of this section in the official code.

(3) Any addition to or deletion from an existing code section not filed by the agency in the style prescribed by subsection (1) of this section shall in all respects be ineffectual, and shall not be shown in subsequent publications or codifications of that section unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the code reviser in accordance with ((~~RCW 34.04.050, as now or hereafter amended, and RCW 34.04.052~~)) section 201 of this act.

PART XIII
ADJUDICATIVE PROCEEDINGS

NEW SECTION. Sec. 401. APPLICATION OF PART IV. (1) Adjudicative proceedings are governed by sections 402 through 423 of this act, except as otherwise provided:

(a) By a rule that adopts the procedures for brief adjudicative proceedings in accordance with the standards provided in section 425 of this act for those proceedings;

(b) By section 424 of this act pertaining to emergency adjudicative proceedings; or

(c) By section 204 of this act pertaining to declaratory proceedings.

(2) Sections 401 through 429 of this act do not apply to rule-making proceedings unless another statute expressly so requires.

NEW SECTION. Sec. 402. COMMENCEMENT——WHEN REQUIRED. (1) Within the scope of its authority, an agency may commence an adjudicative proceeding at any time with respect to a matter within the agency's jurisdiction.

(2) When required by law or constitutional right, and upon the timely application of any person, an agency shall commence an adjudicative proceeding.

(3) An agency may require by rule that an application for an adjudicative proceeding be in writing and that it be filed at a specific address and in a specified manner.

(4) If an agency is required to hold an adjudicative proceeding, an application for an agency to enter an order includes an application for the agency to conduct appropriate adjudicative proceedings, whether or not the applicant expressly requests those proceedings.

(5) An adjudicative proceeding commences when the agency or a presiding officer notifies a party that a prehearing conference, hearing, or other stage of an adjudicative proceeding will be conducted.

NEW SECTION. Sec. 403. DECISION NOT TO CONDUCT AN ADJUDICATION. If an agency decides not to conduct an adjudicative proceeding in response to an application, the agency shall furnish the applicant a copy of its decision in writing, with a brief statement of the agency's reasons and of any administrative review available to the applicant.

NEW SECTION. Sec. 404. AGENCY ACTION ON APPLICATIONS FOR ADJUDICATION. After receipt of an application for an adjudicative proceeding, other than a declaratory order, an agency shall proceed as follows:

(1) Except in situations governed by subsection (2) or (3) of this section, within ninety days after receipt of the application or of the response to a timely request made by the agency under subsection (2) of this section, the agency shall do one of the following:

(a) Approve or deny the application, in whole or in part, on the basis of brief or emergency adjudicative proceedings, if those proceedings are available under this chapter for disposition of the matter;

(b) Commence an adjudicative proceeding in accordance with this chapter; or

(c) Dispose of the application in accordance with section 403 of this act;

(2) Within thirty days after receipt of the application, the agency shall examine the application, notify the applicant of any obvious errors or omissions, request any additional information the agency wishes to obtain and is permitted by law to require, and notify the applicant of the name, mailing address, and telephone number of an office that may be contacted regarding the application;

(3) If the application seeks relief that is not available when the application is filed but may be available in the future, the agency may proceed to make a determination of eligibility within the time limits provided in subsection (1) of this section. If the agency determines that the applicant is eligible, the agency shall maintain the application on the agency's list of

eligible applicants as provided by law and, upon request, shall notify the applicant of the status of the application.

Sec. 405. RATE CHANGES, LICENSES. Section 8, chapter 237, Laws of 1967 as amended by section 1, chapter 33, Laws of 1980 and RCW 34.04.170 are each amended to read as follows:

(1) Unless otherwise provided by law: (a) Applications for rate changes and uncontested applications for licenses may, in the agency's discretion, be conducted as adjudicative proceedings; (b) applications for licenses that are contested and review of denials of applications for licenses or rate changes shall be conducted as adjudicative proceedings; and (c) an agency may not revoke, suspend, modify, annul, withdraw, or amend a license unless the agency gives notice of an opportunity for an appropriate adjudicative proceeding in accordance with this chapter or other statute.

(2) An agency with authority to grant or deny a professional or occupational license shall notify an applicant for a new or renewal license not later than twenty days prior to the date of the examination required for that license of any grounds for denial of the license which are based on specific information disclosed in the application submitted to the agency. The agency shall notify the applicant either that the license is denied or that the decision to grant or deny the license will be made at a future date. If the agency fails to give the notification prior to the examination and the applicant is denied licensure, the examination fee shall be refunded to the applicant. If the applicant takes the examination, the agency shall notify the applicant of the result.

(3) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary, or provisional license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

((~~(2)~~)) (4) If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

NEW SECTION. Sec. 406. PRESIDING OFFICERS——DISQUALIFICATION, SUBSTITUTION. (1) Except as provided in subsection (2) of this section, in the discretion of the agency head, the presiding officer in an administrative hearing shall be:

(a) The agency head or one or more members of the agency head;

(b) If the agency has statutory authority to do so, a person other than the agency head or an administrative law judge designated by the agency head to make the final decision and enter the final order; or

(c) One or more administrative law judges assigned by the office of administrative hearings in accordance with chapter 34.12 RCW.

(2) An agency expressly exempted under RCW 34.12.020(4) or other statute from the provisions of chapter 34.12 RCW or an institution of higher education shall designate a presiding officer as provided by rules adopted by the agency.

(3) Any individual serving or designated to serve alone or with others as presiding officer is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is disqualified.

(4) Any party may petition for the disqualification of an individual promptly after receipt of notice indicating that the individual will preside or, if later, promptly upon discovering facts establishing grounds for disqualification.

(5) The individual whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(6) If a substitute is required for an individual who becomes unavailable as a result of disqualification or any other reason, the substitute must be appointed by the appropriate appointing authority.

(7) Any action taken by a duly appointed substitute for an unavailable individual is as effective as if taken by the unavailable individual.

NEW SECTION. Sec. 407. REPRESENTATION. (1) A party to an adjudicatory proceeding may participate personally or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, if permitted by provision of law, other representative.

NEW SECTION. Sec. 408. CONFERENCE——PROCEDURE AND PARTICIPATION. (1) Agencies may hold prehearing or other conferences for the settlement or simplification of issues. Every agency shall by rule describe the conditions under which and the manner in which conferences are to be held.

(2) In the discretion of the presiding officer, and where the rights of the parties will not be prejudiced thereby, all or part of the conference may be conducted by telephone, television, or other electronic means. Each participant in the conference must have an opportunity to participate effectively in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

Sec. 409. NOTICE OF HEARING. Section 9, chapter 234, Laws of 1959 as last amended by section 1, chapter 31, Laws of 1980 and RCW 34.04.090 are each amended to read as follows:

(1) ((~~In any contested case all parties shall be afforded an opportunity for hearing after not less than twenty days' notice; but no hearing shall be required until the hearing is demanded unless other statutory provisions or agency rules provide otherwise.~~)) The agency or the office of administrative hearings shall set the time and place of the hearing and give not less than seven days advance written notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(2) The notice shall include:

(a) Unless otherwise ordered by the presiding officer, the names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(b) If the agency intends to appear, the mailing address and telephone number of the office designated to represent the agency in the proceeding;

(c) The official file or other reference number and the name of the proceeding;

(d) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(e) A statement of the time, place and nature of the proceeding;

((~~(b)~~)) (f) A statement of the legal authority and jurisdiction under which the hearing is to be held;

((~~(c)~~)) (g) A reference to the particular sections of the statutes and rules involved;

((~~(d)~~)) (h) A short and plain statement of the matters asserted by the agency; and

(i) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with this chapter. ((~~If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.~~

~~(2) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.~~

~~(3) An agency may provide by rule for entry of summary orders in part or in whole after notice and hearing to all parties. The motion shall be granted if the pleadings, dispositions and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to the order as a matter of law.~~

~~(4) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.~~

~~(5) The record in a contested case shall include:~~

~~(a) All pleadings, motions, intermediate rulings;~~

~~(b) Evidence received or considered;~~

~~(c) A statement of matters officially noticed;~~

~~(d) Questions and offers of proof, objections, and ruling thereon;~~

~~(e) Proposed findings and exceptions;~~

~~(f) Any decision, opinion, or report by the officer presiding at the hearing.~~

~~(6) Oral proceedings shall be transcribed for the purposes of agency decision pursuant to RCW 34.04.110, as now or hereafter amended, rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the reasonable costs thereof.~~

~~(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.~~

~~(8) Each agency shall adopt appropriate rules of procedure for notice and hearing in contested cases.~~

~~(9) Agencies, or their authorized agents, may:~~

~~(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law;~~

~~(b) Issue subpoenas as provided in RCW 34.04.105;~~

~~(c) Rule upon offers of proof and receive relevant evidence;~~

~~(d) Take or cause depositions to be taken pursuant to rules promulgated by the agency, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;~~

~~(e) Regulate the course of the hearing;~~

~~(f) Hold conferences for the settlement or simplification of the issues by consent of the parties;~~

~~(g) Dispose of procedural requests or similar matters;~~

~~(h) Issue summary orders;~~

~~(i) Make decisions or proposals for decisions pursuant to RCW 34.04.110;~~

~~(j) Take any other action authorized by agency rule consistent with this chapter.~~))

(3) If the agency is unable to state the matters required by subsection (2)(h) of this section at the time the notice is served, the initial notice may be limited to a statement of the issues involved. If the proceeding is initiated by a person other than the agency, the initial notice may be limited to the inclusion of a copy of the initiating document. Thereafter, upon request, a more definite and detailed statement shall be furnished.

(4) The notice may include any other matters considered desirable by the agency.

NEW SECTION. Sec. 410. PLEADINGS, BRIEFS, MOTIONS, SERVICE. (1) The presiding officer, at appropriate stages of the proceedings, shall give all parties full opportunity to submit and respond to pleadings, motions, objections, and offers of settlement.

(2) At appropriate stages of the proceedings, the presiding officer may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial or final orders.

(3) A party that files a pleading, brief, or other paper with the agency or presiding officer shall serve copies on all other parties, unless a different procedure is specified by agency rule.

NEW SECTION. Sec. 411. DEFAULT. (1) An agency may provide forms for and, by rule, may provide procedures for and impose time limits upon, submission of requests for hearing. Failure of a party to request a hearing within the time limit or limits established by the agency rule constitutes a waiver of that party's right to hearing, and the agency may proceed to resolve the case without further notice to, or hearing for the benefit of, that party. There shall be a minimum of twenty days from notice of an opportunity to request a hearing before a party is deemed to have waived his or her right to a hearing under this subsection.

(2) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order.

(3) Within seven days after service of a default order under subsection (2) of this section, or such longer period as provided by agency rule, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

NEW SECTION. Sec. 412. INTERVENTION. (1) The presiding officer may grant a petition for intervention at any time, upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(2) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition; and

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(3) The presiding officer shall timely grant or deny each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of the decision granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

Sec. 413. SUBPOENAS, DISCOVERY, AND PROTECTIVE ORDERS. Section 10, chapter 237, Laws of 1967 and RCW 34.04.105 are each amended to read as follows:

(1) ((~~In order to determine the necessity or desirability of adopting, amending, repealing, or otherwise revising a rule or proposed rule, agencies may hold public hearings, subpoena witnesses, administer oaths, take the testimony of any person under oath, and in connection therewith, require the production for examination of any books or papers relating to the subject matter of contemplated regulation. Each agency may make rules as to the issuance of subpoenas by the agency or its authorized agents. This subsection shall not preclude the exercise of subpoena powers for investigative purposes granted agencies by other statutory provisions.~~

~~(2) In any contested case after service of notice as required in RCW 34.04.090(1), as now or hereafter amended, agencies, their authorized agents, and hearing examiners hearing the case:~~

~~(a) Shall issue a subpoena upon the request of any party and, to the extent required by agency rule, upon a statement showing general relevance and reasonable scope of the evidence sought: PROVIDED, HOWEVER, That such subpoena may be issued with like effect by the attorney of record of the party to the contested case in whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the agency except that it shall only be subscribed by the signature of such attorney;~~

~~(b) May issue a subpoena upon their own motion.~~

~~(3)~~)) The presiding officer may issue subpoenas and may enter protective orders. A subpoena may be issued with like effect by the agency or the attorney of record in whose behalf the witness is required to appear.

(2) An agency may by rule determine whether or not discovery is to be available in adjudicative proceedings and, if so, which forms of discovery may be used.

(3) Except as otherwise provided by agency rules, the presiding officer may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 36 of the superior court civil rules. The presiding officer may condition use of discovery on a showing of necessity and unavailability by other means. In exercising such discretion, the presiding officer shall consider: (a) Whether all parties are represented by counsel; (b) whether undue expense or delay in bringing the case to hearing will result; (c) whether the discovery will

promote the orderly and prompt conduct of the proceeding; and (d) whether the interests of justice will be promoted.

(4) Subpoenas issued and discovery orders and protective orders entered under this section may be enforced under the provisions of this chapter on civil enforcement of agency action.

(5) The subpoena powers created by this section shall be state-wide in effect.

(((~~(4)~~))) (6) Witnesses in an ((~~agency hearing or contested case~~)) adjudicatory proceeding shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by chapter 2.40 RCW and by RCW 5.56.010, ((~~as now or hereafter amended: PROVIDED,~~)) except that the agency shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010((~~, as now or hereafter amended,~~)) as to courts. ((~~Such~~)) The person initiating an adjudicative proceeding or the party requesting issuance of a subpoena shall pay the fees and allowances((~~,~~)) and the cost of producing records required to be produced by ((~~agency~~)) subpoena((~~, shall be paid by the agency or, in a contested case, by the party requesting the issuance of the subpoena.~~

~~(5) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the agency or attorney issuing the subpoena may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the agency. The court upon such petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, and in the case of a rule-making hearing that the requested appearance and testimony are necessary to secure information the expected nature of which would reasonably tend to cause the agency to exercise its rule-making authority, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order the witness shall be dealt with as for contempt of court~~)).

NEW SECTION. Sec. 414. PROCEDURE AT HEARING. (1) The presiding officer shall regulate the course of the proceedings, in conformity with the prehearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

(3) In the discretion of the presiding officer, and where the rights of the parties will not be prejudiced thereby, all or part of the hearing may be conducted by telephone, television, or other electronic means. Each party in the hearing must have an opportunity to participate effectively in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(4) The presiding officer shall cause the hearing to be recorded by a method chosen by the agency. The agency is not required, at its expense, to prepare a transcript, unless required to do so by a provision of law. Any party, at the party's expense, may cause a reporter approved by the agency to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption.

(5) The hearing is open to public observation, except for the parts that the presiding officer states to be closed under a provision of law expressly authorizing closure or under a protective order issued by the presiding officer pursuant to rules adopted by the chief administrative law judge. A presiding officer may order the exclusion of witnesses upon a showing of good cause. To the extent that the hearing is conducted by telephone, television, or other electronic means, and is not closed, the availability of public observation is satisfied by giving members of the public an opportunity, at reasonable times, to hear or inspect the agency's record, and to inspect any transcript obtained by the agency.

Sec. 415. RULES OF EVIDENCE——CROSS-EXAMINATION. Section 10, chapter 234, Laws of 1959 and RCW 34.04.100 are each amended to read as follows:

((~~In contested cases:~~))

(1) ((~~Agencies, or their authorized agents, may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.~~

~~(2) All evidence, including but not limited to records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case.~~)) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding

officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) If not inconsistent with subsection (1) of this section, the presiding officer shall refer to the Washington Rules of Evidence as guidelines for evidentiary rulings.

(3) All testimony of parties and witnesses shall be made under oath or affirmation.

(4) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

((~~(3) Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.~~

~~(4) Agencies, or their authorized agents, may take~~)) (5) Official notice may be taken of (a) any judicially cognizable facts ((~~and in addition may take notice of general~~)), (b) technical((;)) or scientific facts within ((~~their~~)) the agency's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. ((~~Agencies, or their authorized agents, may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.~~)) A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

NEW SECTION. Sec. 416. EX PARTE COMMUNICATIONS. (1) A presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any person employed by the agency without notice and opportunity for all parties to participate, except as provided in this subsection:

(a) Where the ultimate legal authority of an agency is vested in a multimember body, and where that body presides at an adjudication, members of the body may communicate with one another regarding the proceeding;

(b) Any presiding officer may receive aid from legal counsel, or from staff assistants who are subject to the presiding officer's supervision; and

(c) Presiding officers may communicate with other employees or consultants of the agency who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.

(d) This subsection does not apply to communications required for the disposition of ex parte matters specifically authorized by statute.

(2) Unless required for the disposition of ex parte matters specifically authorized by statute or unless necessary to procedural aspects of maintaining an orderly process, a presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding, with any person not employed by the agency who has a direct or indirect interest in the outcome of the proceeding, without notice and opportunity for all parties to participate.

(3) Unless necessary to procedural aspects of maintaining an orderly process, persons to whom a presiding officer may not communicate under subsections (1) and (2) of this section may not communicate with presiding officers without notice and opportunity for all parties to participate.

(4) If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5) of this section.

(5) A presiding officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication. The presiding officer shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record. Portions of the record pertaining to ex parte communications or rebuttal statements do not constitute evidence of any fact at issue in the matter unless a party moves the admission of any portion of the record for purposes of establishing a fact at issue and that portion is admitted pursuant to section 415 of this act.

(6) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a presiding officer who receives the communication may be disqualified, and the portions of the record pertaining to the communication may be sealed by protective order.

(7) The agency shall, and any party may, report any violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, each agency by rule may provide for appropriate sanctions, including default, for any violations of this section.

NEW SECTION. Sec. 417. SEPARATION OF FUNCTIONS. (1) A person who has served as investigator, prosecutor, or advocate in an adjudicative proceeding or in its preadjudicative stage, or one who is subject to the authority, direction, or discretion of such a person, may not serve as a presiding officer in the same proceeding.

(2) A person, including an agency head, who has participated in a determination of probable cause or other equivalent preliminary determination in an adjudicative proceeding may serve as presiding officer or assist or advise a presiding officer in the same proceeding unless a party demonstrates grounds for disqualification in accordance with section 406 of this act.

(3) A person may serve as presiding officer at successive stages of the same adjudicative proceeding unless a party demonstrates grounds for disqualification in accordance with section 406 of this act.

NEW SECTION. Sec. 418. ENTRY OF ORDERS. (1) Except as provided in subsection (2) of this section:

(a) If the presiding officer is the agency head or one or more members of the agency head, the presiding officer may enter an initial order if further review is available within the agency, or a final order if further review is not available;

(b) If the presiding officer is a person designated by the agency to make the final decision and enter the final order, the presiding officer shall enter a final order; and

(c) If the presiding officer is one or more administrative law judges, the presiding officer shall enter an initial order.

(2) With respect to agencies exempt from chapter 34.12 RCW or an institution of higher education, the presiding officer shall transmit a full and complete record of the proceedings, including such comments upon demeanor of witnesses as the presiding officer deems relevant, to each agency official who is to enter a final or initial order after considering the record and evidence so transmitted.

(3) Initial and final orders shall include a statement of findings and conclusions, and the reasons and basis therefor, on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction and, if applicable, the action taken on a petition for a stay of effectiveness. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(4) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in

a civil trial. However, the presiding officer shall not base a finding exclusively on such inadmissible evidence unless the presiding officer determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(5) Where it bears on the issues presented, the agency's experience, technical competency, and specialized knowledge may be used in the evaluation of evidence.

(6) If a person serving or designated to serve as presiding officer becomes unavailable for any reason before entry of the order, a substitute presiding officer shall be appointed as provided in section 406 of this act. The substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(7) The presiding officer may allow the parties a designated time after conclusion of the hearing for the submission of memos, briefs, or proposed findings.

(8) Initial or final orders shall be served in writing within ninety days after conclusion of the hearing or after submission of memos, briefs, or proposed findings in accordance with subsection (7) of this section unless this period is waived or extended for good cause shown.

(9) The presiding officer shall cause copies of initial and final orders to be delivered to each party and to the agency head.

NEW SECTION. Sec. 419. REVIEW OF INITIAL ORDERS. (1) As authorized by law, an agency may by rule provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified period, (a) the agency head upon its own motion determines that the initial order should be reviewed, or (b) a party to the proceedings files exceptions to the initial order. Upon occurrence of either event, notice shall be given to all parties to the proceeding.

(2) As provided by law, an agency head may appoint a person to review initial orders and to prepare and enter final agency orders.

(3) Sections 406 and 416 of this act apply to any person reviewing an initial order on behalf of an agency as part of the decision process, and to persons communicating with them, to the same extent that it is applicable to presiding officers.

(4) The officer reviewing the initial order (including the agency head reviewing an initial order) is, for the purposes of this chapter, termed the reviewing officer. The reviewing officer shall exercise all the decision-making power that the reviewing officer would have had to decide and enter the final order had the reviewing officer presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the reviewing officer upon notice to all the parties. In reviewing findings of fact by presiding officers, the reviewing officers shall give due regard to the presiding officer's opportunity to observe the witnesses.

(5) The reviewing officer shall personally consider the whole record or such portions of it as may be cited by the parties.

(6) The reviewing officer shall afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument.

(7) The reviewing officer shall enter a final order disposing of the proceeding or remand the matter for further proceedings, with instructions to the presiding officer who entered the initial order. Upon remanding a matter, the reviewing officer shall order such temporary relief as is authorized and appropriate.

(8) A final order shall include, or incorporate by reference to the initial order, all matters required by section 418(3) of this act.

(9) The reviewing officer shall cause copies of the final order or order remanding the matter for further proceedings to be served upon each party.

NEW SECTION. Sec. 420. STAY. A party may submit to the presiding or reviewing officer, as is appropriate to the stage of the proceeding, a petition for stay of effectiveness of a final order within ten days of its service unless otherwise provided by statute or stated in the final order. Disposition of the petition for stay shall be made by the presiding officer, reviewing officer, or agency head as provided by agency rule. Disposition may be made either before or after the effective date of the final order. Disposition denying a stay is not subject to judicial review.

NEW SECTION. Sec. 421. RECONSIDERATION. (1) Within ten days of the service of a final order, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The place of filing shall be specified by agency rule.

(2) The petition shall be disposed of by the same person or persons who entered the order, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further hearing. The petition shall be deemed to have been denied if not disposed of within twenty days.

(3) No petition for reconsideration may stay the effectiveness of an order.

(4) The agency head may extend the time limits in this section for good cause, with due consideration that the rights of the parties will not be prejudiced by the extension and that extension will be in the public interest.

(5) The filing of a petition for reconsideration is not a prerequisite for seeking judicial review. An order denying reconsideration, or an extension of time limits pursuant to subsection (4) of this section is not subject to judicial review.

NEW SECTION. Sec. 422. EFFECTIVENESS OF ORDERS. (1) Unless a later date is stated in an order or a stay is granted, an order is effective when signed, but:

(a) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the final order;

(b) A nonparty may not be required to comply with a final order unless the agency has made the final order available for public inspection and copying or the nonparty has actual knowledge of the final order;

(c) For purposes of determining time limits for further administrative procedure or for judicial review, the determinative date is the date of service of the order.

(2) Unless a later date is stated in the initial order or a stay is granted, the time when an initial order becomes a final order in accordance with section 418 of this act is determined as follows:

(a) When the initial order is entered, if administrative review is unavailable; or

(b) When the agency head with such authority enters an order stating, after a petition for administrative review has been filed, that review will not be exercised.

(3) This section does not preclude an agency from taking immediate action to protect the public interest in accordance with section 424 of this act.

NEW SECTION. Sec. 423. AGENCY RECORD. (1) An agency shall maintain an official record of each adjudicative proceeding under this chapter.

(2) The agency record shall include:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, requests, and intermediate rulings;

(d) Evidence received or considered;

(e) A statement of matters officially noticed;

(f) Proffers of proof and objections and rulings thereon;

(g) Proposed findings, requested orders, and exceptions;

(h) The recording prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding;

(i) Any final order, initial order, or order on reconsideration;

(j) Staff memoranda or data submitted to the presiding officer, unless prepared and submitted by personal assistants and not inconsistent with section 416 of this act; and

(k) Matters placed on the record after an ex parte communication.

(3) Except to the extent that this chapter or another statute provides otherwise, the agency record constitutes the exclusive basis for agency action in adjudicative proceedings under this chapter and for judicial review of adjudicative proceedings.

NEW SECTION. Sec. 424. EMERGENCY ADJUDICATIVE PROCEEDINGS. (1) Unless otherwise provided by law, an agency may use emergency adjudicative proceedings in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

(2) The agency may take only such action as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies use of emergency adjudication.

(3) The agency shall enter an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the agency's discretion, to justify the determination of an immediate danger and the agency's decision to take the specific action.

(4) The agency shall give such notice as is practicable to persons who are required to comply with the order. The order is effective when entered.

(5) After entering an order under this section, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(6) The agency record consists of any documents regarding the matter that were considered or prepared by the agency. The agency shall maintain these documents as its official record.

(7) Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in emergency adjudicative proceedings or for judicial review thereof.

(8) This section shall not apply to agency action taken pursuant to a provision of law that expressly authorizes the agency to issue a cease and desist order. The agency may proceed, alternatively, under that independent authority.

NEW SECTION. Sec. 425. BRIEF ADJUDICATIVE PROCEEDINGS——APPLICABILITY. (1) An agency may use brief adjudicative proceedings if:

(a) The use of those proceedings in the circumstances does not violate any provision of law;

(b) The protection of the public interest does not require the agency to give notice and an opportunity to participate to persons other than the parties;

(c) The matter is entirely within one or more categories for which the agency by rule has adopted this section and sections 426 through 429 of this act; and

(d) The issue and interests involved in the controversy do not warrant use of the procedures of sections 402 through 424 of this act.

(2) Brief adjudicative proceedings are not authorized for public assistance and food stamp programs provided for in Title 74 RCW, including but not limited to public assistance as defined in RCW 74.04.005(1).

NEW SECTION. Sec. 426. BRIEF ADJUDICATIVE PROCEEDINGS——PROCEDURE. (1) If not specifically prohibited by law, the following persons may be designated as the presiding officer of a brief adjudicative proceeding:

(a) The agency head;

(b) One or more members of the agency head;

(c) One or more administrative law judges; or

(d) One or more other persons designated by the agency head.

(2) Before taking action, the presiding officer shall give each party an opportunity to be informed of the agency's view of the matter and to explain the party's view of the matter.

(3) At the time any unfavorable action is taken the presiding officer shall give each party a brief statement of the reasons for the decision. Within ten days, the presiding officer shall give the parties a brief written statement of the reasons for the decision and information about any internal administrative review available.

(4) The brief written statement is a proposed order. If no review is taken of the proposed order as authorized by sections 427 and 428 of this act, the proposed order shall be the final order.

NEW SECTION. Sec. 427. BRIEF PROCEEDINGS——ADMINISTRATIVE REVIEW——APPLICABILITY. Unless prohibited by any provision of law, an agency, on its own motion, may conduct administrative review of an order resulting from brief adjudicative proceedings. An agency shall conduct this review upon the written or oral request of a party if the agency receives the request within twenty-one days after furnishing the written statement required by section 426(3) of this act.

NEW SECTION. Sec. 428. BRIEF PROCEEDINGS——ADMINISTRATIVE REVIEW——PROCEDURES. Unless otherwise provided by statute:

(1) If the parties have not requested review, the agency may review an order resulting from a brief adjudicative proceeding on its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(2) The reviewing officer may be any person who could have presided at the brief proceeding, but the reviewing officer must be one who is authorized to grant appropriate relief upon review.

(3) The reviewing officer shall give each party an opportunity to explain the party's view of the matter and shall make any inquiries necessary

to ascertain whether the proceeding must be converted to a formal adjudicative hearing.

(4) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within twenty days after the date of the initial order or of the request for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(5) A request for administrative review is deemed to have been denied if the agency does not make a disposition of the matter within twenty days after the request is submitted.

NEW SECTION. Sec. 429. AGENCY RECORD IN BRIEF PROCEEDINGS. (1) The agency record consists of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. The agency shall maintain these documents as its official record.

(2) Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in brief adjudicative proceedings or for the judicial review of brief adjudicative proceedings.

PART XIV
JUDICIAL REVIEW AND CIVIL ENFORCEMENT

NEW SECTION. Sec. 501. RELATIONSHIP BETWEEN THIS CHAPTER AND OTHER JUDICIAL REVIEW AUTHORITY. This chapter establishes the exclusive means of judicial review of agency action, except:

(1) The provisions of this chapter for judicial review do not apply to litigation in which the sole issue is a claim for money damages or compensation and the agency whose action is at issue does not have statutory authority to determine the claim.

(2) Ancillary procedural matters before the reviewing court, including intervention, class actions, consolidation, joinder, severance, transfer, protective orders, and other relief from disclosure of privileged or confidential material, are governed, to the extent not inconsistent with this chapter, by court rule.

(3) To the extent that de novo review or jury trial review of agency action is expressly authorized by provision of law.

NEW SECTION. Sec. 502. PETITION FOR REVIEW——WHERE FILED. (1) Except as provided in subsection (2) of this section and section 508 of this act, proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located.

(2) For proceedings involving institutions of higher education, the petition shall be filed either in the county in which the principal office of the institution involved is located or in the county of a branch campus if the action involves such branch.

Sec. 503. DIRECT REVIEW BY COURT OF APPEALS. Section 1, chapter 76, Laws of 1980 and RCW 34.04.133 are each amended to read as follows:

The final decision of an administrative agency in ((~~a contested case~~)) an adjudicative proceeding under this chapter ((~~34.04 RCW~~)) may be directly reviewed by the court of appeals upon certification by the superior court pursuant to this section. An application for ((~~such~~)) direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(1) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(2) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(3) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(4) The appellate court's determination in the proceeding would have significant precedential value.

Sec. 504. REFUSAL OF REVIEW BY COURT OF APPEALS. Section 2, chapter 76, Laws of 1980 and RCW 34.04.135 are each amended to read as follows:

The court of appeals may refuse to accept review of a case certified pursuant to ((~~RCW 34.04.133~~)) section 503 of this act. The refusal to accept such review is not subject to further appellate review, notwithstanding anything in Rule 13.3 of the Rules of Appellate Procedure to the contrary.

Sec. 505. APPEAL TO SUPREME COURT OR COURT OF APPEALS. Section 14, chapter 234, Laws of 1959 as amended by section 87, chapter 81, Laws of 1971 and RCW 34.04.140 are each amended to read as follows:

An aggrieved party may secure a review of any final judgment of the superior court under this chapter by appeal to the supreme court or the court of appeals. ((~~Such~~)) The appeal shall be taken in the manner provided by law for appeals from the superior court in other civil cases.

NEW SECTION. Sec. 506. STANDING. A person has standing to obtain judicial review of agency action if that person is aggrieved or adversely affected by the agency action. A person is aggrieved or adversely

affected within the meaning of this section only when all three of the following conditions are present:

(1) The agency action has prejudiced or is likely to prejudice that person;

(2) That person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; and

(3) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action.

NEW SECTION. Sec. 507. EXHAUSTION OF ADMINISTRATIVE REMEDIES. A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the agency whose action is being challenged, or available within any other agency authorized to exercise administrative review, except:

(1) A petitioner for judicial review of a rule need not have participated in the rule-making proceeding upon which that rule is based, or have petitioned for its amendment or repeal;

(2) A petitioner for judicial review need not exhaust administrative remedies to the extent that this chapter or any other statute states that exhaustion is not required; or

(3) The court may relieve a petitioner of the requirement to exhaust any or all administrative remedies upon a showing that:

(a) The remedies would be patently inadequate;

(b) The exhaustion of remedies would be futile; or

(c) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies.

Sec. 508. DECLARATORY JUDGMENT ON VALIDITY OF RULE. Section 7, chapter 234, Laws of 1959 as amended by section 8, chapter 6, Laws of 1982 and RCW 34.04.070 are each amended to read as follows:

(((~~(1)~~))) The validity of any rule may be determined upon petition for a declaratory judgment ((~~thereon~~)) addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair, the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment order may be ((~~rendered~~)) entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

~~(((2) In a proceeding under subsection (1) of this section the court shall declare the rule invalid only if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.~~

~~(3) A petition for a declaratory judgment pursuant to this section may not be solely based on the contents of the small business economic impact statement. However, in the case of a petition for a declaratory judgment as to the validity of any rule which is adopted after June 10, 1982, and which is based on grounds other than the contents of the small business economic impact statement, the compliance or noncompliance by the agency with the provisions of this chapter and where applicable the small business economic impact statement shall constitute part of the whole record of the agency's action in connection with the petition.~~))

NEW SECTION. Sec. 509. TIME FOR FILING PETITION FOR REVIEW. Subject to other requirements of this chapter or of another statute:

(1) A petition for judicial review of a rule may be filed at any time, except as limited by section 314 of this act.

(2) A petition for judicial review of an order shall be filed with the court and served on the agency, the office of the attorney general, and all parties of record within thirty days after service of the final order.

(3) A petition for judicial review of agency action other than the adoption of a rule or the entry of an order is not timely unless filed with the court and served on the agency, the office of the attorney general, and all other parties of record within thirty days after the agency action, but the time is extended during any period that the petitioner did not know and was under no duty to discover or could not reasonably have discovered that the agency had taken the action or that the agency action had a sufficient effect to confer standing upon the petitioner to obtain judicial review under this chapter.

(4) Service of the petition on the agency shall be by delivery of a copy of the petition to the office of the director, or other chief administrative officer or chairperson of the agency, at the principal office of the agency. Service of a copy by mail upon the other parties of record and the office of the attorney general shall be deemed complete upon deposit in the United States mail, as evidenced by the postmark.

(5) Failure to timely serve a petition on the office of the attorney general is not grounds for dismissal of the petition.

NEW SECTION. Sec. 510. PETITION FOR REVIEW——CONTENTS. A petition for review must set forth:

(1) The name and mailing address of the petitioner;

(2) The name and mailing address of the petitioner's attorney, if any;

(3) The name and mailing address of the agency whose action is at issue;

(4) Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action;

(5) Identification of persons who were parties in any adjudicative proceedings that led to the agency action;

(6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;

(7) The petitioner's reasons for believing that relief should be granted; and

(8) A request for relief, specifying the type and extent of relief requested.

NEW SECTION. Sec. 511. STAY AND OTHER TEMPORARY REMEDIES. (1) Unless precluded by law, the agency may grant a stay, in whole or in part, or other temporary remedy during the pendency of judicial review.

(2) After a petition for review has been filed, a party may file a motion in the reviewing court seeking a stay or other temporary remedy.

(3) If judicial relief is sought for a stay or other temporary remedy from agency action based on public health, safety, or welfare grounds the court shall not grant such relief unless the court finds that:

(a) The applicant is likely to prevail when the court finally disposes of the matter;

(b) Without relief the applicant will suffer irreparable injury;

(c) The grant of relief to the applicant will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify the agency action in the circumstances.

(4) If the court determines that relief should be granted from the agency's action granting a stay or other temporary remedies, the court may remand the matter or may enter an order denying a stay or granting a stay on appropriate terms.

NEW SECTION. Sec. 512. LIMITATION ON NEW ISSUES. (1) Issues not raised before the agency may not be raised on appeal, except to the extent that:

(a) The person did not know and was under no duty to discover or could not have reasonably discovered facts giving rise to the issue;

(b) The agency action subject to judicial review is a rule and the person has not been a party in adjudicative proceedings that provided an adequate opportunity to raise the issue;

(c) The agency action subject to judicial review is an order and the person was not notified of the adjudicative proceeding in substantial compliance with this chapter; or

(d) The interests of justice would be served by resolution of an issue arising from:

(i) A change in controlling law occurring after the agency action; or

(ii) Agency action occurring after the person exhausted the last feasible opportunity for seeking relief from the agency.

(2) The court shall remand to the agency for determination any issue that is properly raised pursuant to subsection (1) of this section.

NEW SECTION. Sec. 513. JUDICIAL REVIEW OF FACTS CONFINED TO RECORD. Judicial review of disputed issues of fact shall be conducted by the court without a jury and must be confined to the agency record for judicial review as defined by this chapter, supplemented by additional evidence taken pursuant to this chapter.

NEW SECTION. Sec. 514. NEW EVIDENCE TAKEN BY COURT OR AGENCY. (1) The court may receive evidence in addition to that contained in the agency record for judicial review, only if it relates to the validity of the agency action at the time it was taken and is needed to decide disputed issues regarding:

(a) Improper constitution as a decision-making body or grounds for disqualification of those taking the agency action;

(b) Unlawfulness of procedure or of decision-making process; or

(c) Material facts in rule making, brief adjudications, or other proceedings not required to be determined on the agency record.

(2) The court may remand a matter to the agency, before final disposition of a petition for review, with directions that the agency conduct fact-finding and other proceedings the court considers necessary and that the agency take such further action on the basis thereof as the court directs, if:

(a) The agency was required by this chapter or any other provision of law to base its action exclusively on a record of a type reasonably suitable for judicial review, but the agency failed to prepare or preserve an adequate record;

(b) The court finds that (i) new evidence has become available that relates to the validity of the agency action at the time it was taken, that one or more of the parties did not know and was under no duty to discover or could not have reasonably been discovered until after the agency action, and (ii) the interests of justice would be served by remand to the agency;

(c) The agency improperly excluded or omitted evidence from the record; or

(d) A relevant provision of law changed after the agency action and the court determines that the new provision may control the outcome.

NEW SECTION. Sec. 515. AGENCY RECORD FOR REVIEW——COSTS. (1) Within thirty days after service of the petition, or within further time allowed by the court or by other provision of law, the agency shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action. The record shall consist of any agency documents expressing the agency action, other documents identified by the agency as having been considered by it before its action and used as a basis for its action, and any other material described in this chapter as the agency record for the type of agency action at issue, subject to the provisions of this section.

(2) If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to

the court, except for portions that the parties stipulate to omit in accordance with subsection (4) of this section.

(3) The agency may charge a nonindigent petitioner with the reasonable costs of preparing any necessary copies and transcripts for transmittal to the court. A failure by the petitioner to pay any of this cost to the agency relieves the agency from the responsibility for preparation of the record and transmittal to the court.

(4) The record may be shortened, summarized, or organized temporarily or, by stipulation of all parties, permanently.

(5) The court may tax the cost of preparing transcripts and copies for the record:

(a) Against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record;

(b) As provided by section 516 of this act; or

(c) In accordance with any other provision of law.

(6) Additions to the record pursuant to section 514 of this act must be made as ordered by the court.

(7) The court may require or permit subsequent corrections or additions to the record.

Sec. 516. JUDICIAL REVIEW. Section 13, chapter 234, Laws of 1959 as last amended by section 1, chapter 52, Laws of 1977 ex. sess. and RCW 34.04.130 are each amended to read as follows:

(1) ((~~Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, is entitled to judicial review thereof only under the provisions of *this 1967 amendatory act, and such person may not use any other procedure to obtain judicial review of a final decision, even though another procedure is provided elsewhere by a special statute or a statute of general application. Where the agency's rules provide a procedure for rehearing or reconsideration, and that procedure has been invoked, the agency decision shall not be final until the agency shall have acted thereon.~~

~~(2) Proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located. The petition shall be served and filed within thirty days after the service of the final decision of the agency. Copies of the petition shall be served upon the agency and all parties of record. If a timely petition is filed any party of record not filing or joining in the first petition who wants relief from the decision must join in the petition or serve and file a cross-petition within twenty days after service of the first petition or thirty days after service of the final decision of the agency, whichever period of time is longer. The court, in its discretion, may permit other interested persons to intervene.~~

~~(3) The filing of the petition shall not stay enforcement of the agency decision. Where other statutes provide for stay or supersedeas of an agency decision, it may be stayed by the agency or the reviewing court only as provided therein, otherwise the agency may do so, or the reviewing court may order a stay upon such terms as it deems proper.~~

~~(4) Within thirty days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.~~

~~(5) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.~~

~~(6) The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are~~)) Generally. Except to the extent that this chapter or another statute provides otherwise:

(a) The burden of demonstrating the invalidity of agency action is on the party asserting invalidity;

(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken;

(c) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based; and

(d) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of.

(2) Review of rules. (a) A rule may be reviewed by petition for declaratory judgment filed pursuant to section 508 of this act or by review of other agency action.

(b) The validity of any rule may be determined upon petition for a declaratory judgment addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment order may be entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(c) In a declaratory judgment proceeding, the court shall declare the rule invalid only if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.

(3) Review of agency orders. The court shall grant relief from an agency order only if it determines that:

(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied; ((or))

(b) ((~~in excess of~~)) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law; ((or))

(c) ((~~made upon~~)) The agency has engaged in unlawful procedure or decision making process, or has failed to follow a prescribed procedure; ((or))

(d) ((~~affected by other error of~~)) The agency has erroneously interpreted or applied the law; ((or))

(e) ((~~clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order~~)) The order, other than a rule, is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter; ((or))

(f) The agency has not decided all issues requiring resolution by the agency;

(g) The persons entering the order were subject to disqualification;

(h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or

(i) The order is arbitrary or capricious.

(4) Review of other agency action.

(a) All agency action not reviewable under subsection (2) or (3) of this section shall be reviewed under this subsection.

(b) A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to section 502 of this act, seeking an order pursuant to this subsection requiring performance. Within twenty days after service of the petition for review, the agency shall file and serve an answer to the petition, made in the same manner as an answer to a complaint in a civil action. The court may hear evidence, pursuant to section 514 of this act, on material issues of fact raised by the petition.

(c) Relief for persons aggrieved by the performance of an agency action, including the exercise of discretion, or an action under (b) of this subsection can be granted only if the court determines that the action is:

(i) Unconstitutional;

(ii) Outside the statutory authority of the agency or the authority conferred by a provision of law;

(iii) Arbitrary or capricious; or

(iv) Taken by persons who were not properly constituted as agency officials lawfully entitled to take such action.

NEW SECTION. Sec. 517. TYPE OF RELIEF. (1) The court may order an agency to take action required by law, order an agency to exercise discretion required by law, affirm or set aside agency action, enjoin or stay the agency action, remand the matter for further proceedings, or enter a declaratory judgment order. In reviewing matters within agency discretion, the court shall limit its function to assuring that the agency has exercised its discretion in accordance with law, and shall not itself undertake to exercise the discretion that the legislature has placed in the agency. The court shall remand to the agency for modification of agency action, unless remand is impracticable or would cause unnecessary delay.

(2) The sole remedy available to a person who is wrongfully denied licensure based upon a failure to pass an examination administered by a state agency, or under its auspices, is the right to retake the examination free of the defect or defects the court may have found in the examination or the examination procedure.

(3) The court may award damages, compensation, or ancillary relief only to the extent expressly authorized by another provision of law.

(4) If the court sets aside or modifies agency action or remands the matter to the agency for further proceedings, the court may make any interlocutory order it finds necessary to preserve the interests of the parties and the public, pending further proceedings or agency action.

NEW SECTION. Sec. 518. PETITION BY AGENCY FOR ENFORCEMENT. (1) In addition to other remedies provided by law, an agency may seek enforcement of its rule or order by filing a petition for civil enforcement in the superior court.

(2) The petition must name as respondent each alleged person against whom the agency seeks to obtain civil enforcement.

(3) Venue is determined as in other civil cases.

(4) A petition for civil enforcement filed by an agency may request, and the court may grant, declaratory relief, temporary or permanent injunctive relief, any other civil remedy provided by law, or any combination of the foregoing.

NEW SECTION. Sec. 519. PETITION BY OTHERS FOR ENFORCEMENT. (1) Any person who would qualify under this chapter as having standing to obtain judicial review of an agency's failure to enforce an order directed to another person may file a petition for civil enforcement of that order, but the action may not be commenced:

(a) Until at least sixty days after the petitioner has given notice of the alleged violation and of the petitioner's intent to seek civil enforcement to the head of the agency concerned, to the attorney general, and to each person against whom the petitioner seeks civil enforcement;

(b) If the agency has filed and is diligently prosecuting a petition for civil enforcement of the same order against the same person; or

(c) If a petition for review of the same order has been filed and a stay is in effect.

(2) The petition shall name, as respondents, the agency whose order is sought to be enforced and each person against whom the petitioner seeks civil enforcement.

(3) The agency whose order is sought to be enforced may move to dismiss the petition on the grounds that it fails to qualify under this section or that the enforcement would be contrary to the policy of the agency. The court shall grant the motion to dismiss the petition unless the petitioner demonstrates that (a) the petition qualifies under this section and (b) the agency's failure to enforce its order is based on an exercise of discretion that is arbitrary or capricious.

(4) Except to the extent expressly authorized by law, a petition for civil enforcement may not request, and the court may not grant, any monetary payment apart from taxable costs.

NEW SECTION. Sec. 520. DEFENSES——LIMITATION ON NEW ISSUES. (1) In a proceeding for civil enforcement a respondent may only assert as a defense:

(a) That the rule or order is invalid under section 516(3) (a) or (b) of this act. The court may only consider issues and receive evidence within the limitations provided by sections 512, 513, and 514 of this act;

(b) That the rule or order does not apply to the party or that the party has not violated the rule or order; and

(c) A defense specifically authorized by statute.

(2) The court, to the extent necessary for the determination of the matter, may consider new issues or take new evidence.

NEW SECTION. Sec. 521. INCORPORATION OF OTHER JUDICIAL REVIEW PROVISIONS. Proceedings for civil enforcement are governed by the following provisions of this chapter on judicial review, as modified where necessary to adapt them to those proceedings:

(1) Section 501(2) of this act (ancillary procedural matters); and

(2) Section 515 of this act (agency record for judicial review).

NEW SECTION. Sec. 522. REVIEW BY HIGHER COURT. Decisions on petitions for civil enforcement are reviewable as in other civil cases.

PART XV
LEGISLATIVE REVIEW AND MISCELLANEOUS PROVISIONS

Sec. 601. JOINT ADMINISTRATIVE RULES REVIEW COMMITTEE——MEMBERS——APPOINTMENT——TERMS——VACANCIES. Section 5, chapter 324, Laws of 1981 as amended by section 1, chapter 53, Laws of 1983 and RCW 34.04.210 are each amended to read as follows:

(1) There is hereby created a joint administrative rules review committee which shall be a bipartisan committee consisting of four senators and four representatives from the state legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house may be from the same political party. All appointments to the committee are subject to approval by the caucuses to which the appointed members belong.

(2) ((~~The initial members of the committee shall be appointed as soon as possible after July 26, 1981, and shall serve until the next regular session of the legislature convenes in an odd-numbered year. Thereafter~~)) Members shall be appointed as soon as possible after the legislature convenes in regular session in an odd-numbered year, and their terms shall extend until their successors are appointed and qualified at the next regular session of the legislature in an odd-numbered year or until such members no longer serve in the legislature, whichever occurs first. Members may be reappointed to a committee.

(3) The president of the senate shall appoint the chairperson in even-numbered years and the vice chairperson in odd-numbered years from among committee membership. The speaker of the house shall appoint the chairperson in odd-numbered years and the vice chairperson in even-numbered years from among committee membership. Such appointments shall be made in January of each year as soon as possible after a legislative session convenes.

(4) A vacancy on the committee shall be filled by appointment of a legislator from the same political party as the original appointment. The appropriate appointing authority shall make the appointment within thirty days of the vacancy occurring.

Sec. 602. REVIEW OF PROPOSED RULES——NOTICE. Section 6, chapter 324, Laws of 1981 as amended by section 1, chapter 451, Laws of 1987 and RCW 34.04.220 are each amended to read as follows:

Whenever a majority of the members of the rules review committee determines that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, the committee shall give the affected agency written notice of its decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to ((~~RCW 34.04.025(1)(a)(iii)~~))

section 303 of this act. The notice shall include a statement of the review committee's findings and the reasons therefor. When the agency holds a hearing on the proposed rule, the agency shall consider the review committee's decision.

Sec. 603. REVIEW OF EXISTING RULES——POLICY STATEMENTS, GUIDELINES, ISSUANCES——NOTICE——HEARING. Section 7, chapter 324, Laws of 1981 as amended by section 2, chapter 451, Laws of 1987 and RCW 34.04.230 are each amended to read as follows:

(1) All rules required to be filed pursuant to ((~~RCW 34.04.040~~)) section 315 of this act, and emergency rules adopted pursuant to ((~~RCW 34.04.030~~)) section 309 of this act, are subject to selective review by the legislature.

(2) The rules review committee may review an agency's use of policy statements, guidelines, and issuances that are of general applicability, or their equivalents to determine whether or not an agency has failed to adopt a rule ((~~as defined in RCW 34.04.010(2)~~)).

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, or (c) that an agency is using a policy statement, guideline, or issuance in place of a rule, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in ((~~RCW 34.04.025, as now or hereafter amended~~)) section 303 of this act. The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, or (c) whether the agency is using a policy statement, guideline, or issuance in place of a rule.

Sec. 604. COMMITTEE OBJECTIONS TO AGENCY ACTION OR FAILURE TO ADOPT RULE——STATEMENT IN REGISTER AND WAC——SUSPENSION OF RULE. Section 8, chapter 324, Laws of 1981 as amended by section 3, chapter 451, Laws of 1987 and RCW 34.04.240 are each amended to read as follows:

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to ((~~RCW 34.04.220 or~~

~~34.04.230~~)) section 602 or 603 of this act, the affected agency shall notify the committee of its action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules. If the rules review committee determines, by a majority vote of its members, that the agency has failed to provide for the required hearings or notice of its action to the committee, the committee may file notice of its objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.

(2) If the rules review committee finds, by a majority vote of its members: (a) That the proposed or existing rule in question has not been modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, or (b) that the agency is using a policy statement, guideline, or issuance in place of a rule, the rules review committee may, within thirty days from notification by the agency of its action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3) If the rules review committee makes an adverse finding under subsection (2) of this section, the committee may, by a two-thirds vote of its members, recommend suspension of an existing rule. Within seven days of such vote the committee shall transmit to the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (1), (2), or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

(5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.

Sec. 605. RECOMMENDATIONS BY COMMITTEE TO LEGISLATURE. Section 9, chapter 324, Laws of 1981 as amended by section 4, chapter 451, Laws of 1987 and RCW 34.04.250 are each amended to read as follows:

The rules review committee may recommend to the legislature that the original enabling legislation serving as authority for the ((~~promulgation~~)) adoption of any rule reviewed by the committee be amended or repealed in such manner as the committee deems advisable.

Sec. 606. REVIEW AND OBJECTION PROCEDURES——NO PRESUMPTION ESTABLISHED. Section 10, chapter 324, Laws of 1981 and RCW 34.04.260 are each amended to read as follows:

It is the express policy of the legislature that establishment of procedures for review of administrative rules by the legislature and the notice of objection required by ((~~RCW 34.04.230(2) and 34.04.240(2)~~)) sections 603(2) and 604(2) of this act in no way serves to establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceedings interpreting such rules.

NEW SECTION. Sec. 607. The provisions of RCW 4.84.185 relating to civil actions that are frivolous and advanced without reasonable cause apply to petitions for judicial review under this chapter.

PART XVI
TECHNICAL PROVISIONS

*NEW SECTION. Sec. 701. REPEALER. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.010;

(2) Section 2, chapter 57, Laws of 1971 ex. sess., section 42, chapter 169, Laws of 1977 ex. sess., section 11, chapter 324, Laws of 1981 and RCW 28B.19.020;

(3) Section 3, chapter 57, Laws of 1971 ex. sess., section 10, chapter 240, Laws of 1977 ex. sess., section 12, chapter 324, Laws of 1981, section 7, chapter 221, Laws of 1982 and RCW 28B.19.030;

(4) Section 23, chapter 186, Laws of 1980, section 8, chapter 221, Laws of 1982 and RCW 28B.19.033;

(5) Section 24, chapter 186, Laws of 1980 and RCW 28B.19.037;

(6) Section 4, chapter 57, Laws of 1971 ex. sess., section 4, chapter 46, Laws of 1973 1st ex. sess., section 11, chapter 240, Laws of 1977 ex. sess., section 13, chapter 324, Laws of 1981 and RCW 28B.19.040;

(7) Section 5, chapter 57, Laws of 1971 ex. sess., section 9, chapter 87, Laws of 1980, section 12, chapter 505, Laws of 1987 and RCW 28B.19-.050;

(8) Section 6, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.060;

(9) Section 7, chapter 57, Laws of 1971 ex. sess., section 25, chapter 186, Laws of 1980 and RCW 28B.19.070;

(10) Section 26, chapter 186, Laws of 1980 and RCW 28B.19.073;

(11) Section 27, chapter 186, Laws of 1980 and RCW 28B.19.077;

(12) Section 8, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.080;

(13) Section 9, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.090;

(14) Section 10, chapter 57, Laws of 1971 ex. scss. and RCW 28B.19-.100;

(15) Section 11, chapter 57, Laws of 1971 ex. sess., section 5, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.19.110;

(16) Section 12, chapter 57, Laws of 1971 ex. sess., section 6, chapter 46, Laws of 1973 1st ex. sess., section 26, chapter 67, Laws of 1981 and RCW 28B.19.120;

(17) Section 13, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.130;

(18) Section 14, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.140;

(19) Section 15, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.150;

(20) Section 14, chapter 324, Laws of 1981 and RCW 28B.19.160;

(21) Section 15, chapter 324, Laws of 1981 and RCW 28B.19.163;

(22) Section 16, chapter 324, Laws of 1981 and RCW 28B.19.165;

(23) Section 17, chapter 324, Laws of 1981 and RCW 28B.19.168;

(24) Section 16, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.200;

(25) Section 20, chapter 57, Laws of 1971 ex. sess. and RCW 28B.19-.210;

(26) Section 19, chapter 57, Laws of 1971 ex. sess. (uncodified);

(27) Section 22, chapter 57, Laws of 1971 ex. sess. (uncodified);

(28) Section 12, chapter 237, Laws of 1967, section 14, chapter 67, Laws of 1981 and RCW 34.04.022;

(29) Section 3, chapter 237, Laws of 1967, section 17, chapter 250, Laws of 1971 ex. sess., section 7, chapter 240, Laws of 1977 ex. sess, section 3, chapter 324, Laws of 1981, section 1, chapter 221, Laws of 1982 and RCW 34.04.025;

(30) Section 2, chapter 19, Laws of 1977 and RCW 34.04.026;

(31) Section 13, chapter 186, Laws of 1980 and RCW 34.04.052;

(32) Section 9, chapter 234, Laws of 1959, section 9, chapter 237, Laws of 1967, section 1, chapter 31, Laws of 1980 and RCW 34.04.090;

(33) Section 11, chapter 234, Laws of 1959 and RCW 34.04.110;

(34) Section 12, chapter 234, Laws of 1959, section 1, chapter 12, Laws of 1975 and RCW 34.04.120;

(35) Section 3, chapter 221, Laws of 1982 and RCW 34.04.270;

(36) Section 4, chapter 221, Laws of 1982, section 18, chapter 505, Laws of 1987 and RCW 34.04.280;

(37) Section 5, chapter 221, Laws of 1982 and RCW 34.04.290;

(38) Section 16, chapter 234, Laws of 1959 and RCW 34.04.900;

(39) Section 27, chapter 237, Laws of 1967 and RCW 34.04.901;

(40) Section 17, chapter 234, Laws of 1959, section 25, chapter 237, Laws of 1967 and RCW 34.04.910;

(41) Section 18, chapter 234, Laws of 1959 and RCW 34.04.920;

(42) Section 29, chapter 237, Laws of 1967 and RCW 34.04.921; and

(43) Section 26, chapter 237, Laws of 1967 and RCW 34.04.931.

*Sec. 701 was partially vetoed, see message at end of chapter.

***Sec. 702. DOCUMENTS AND INDEXES TO BE MADE PUBLIC. Section 26, chapter 1, Laws of 1973 as last amended by section 3, chapter 403, Laws of 1987 and RCW 42.17.260 are each amended to read as follows:**

***(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (5) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17-.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.**

***(2) Each agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after ((~~January 1, 1973~~)) the effective date of this section:**

***(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;**

***(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency under section 203 of this act;**

***(c) Administrative staff manuals and instructions to staff that affect a member of the public;**

***(d) Planning policies and goals, and interim and final planning decisions;**

***(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and**

***(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.**

(3) An agency need not maintain such an index for records issued, adopted, or promulgated before the effective date of this section or for records described in (c) through (f) of subsection (2) of this section, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(4) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if——

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(5) (a) Except as provided in (b) of this subsection, this chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law((: PROVIDED, HOWEVER, That)).

(b) Lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor((: PROVIDED FURTHER, That)). Such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter ((34.04)) ... RCW (sections 101 through 607 of this act).

*Sec. 702 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 703. CAPTIONS AND HEADINGS. Section captions and subchapter headings used in this act do not constitute any part of the law.

NEW SECTION. Sec. 704. 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. 705. EFFECTIVE DATE——APPLICATION. Sections 18 through 706 of this act shall take effect on July 1, 1989, and shall apply to all rule-making actions and agency proceedings begun on or after that date. Rule-making actions or other agency proceedings begun before July 1, 1989, shall be completed under the applicable provisions of chapter 28B.19 or 34.04 RCW existing immediately before that date in the same manner as if they were not amended by this act or repealed by section 701 of this act.

NEW SECTION. Sec. 706. Parts X through XV of this act shall constitute a new chapter in Title 34 RCW, and the sections amended or set forth in this act shall be recodified in the order they appear in this act. The code reviser shall correct all statutory references to these sections and to the repealed chapters 28B.19 and 34.04 RCW to reflect this recodification and repeal.

Passed the House March 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 25, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 25, 1988.

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

"I am returning herewith, without my approval as to sections 701(32), 702, and a portion of section 202(3), House Bill No. 1515, entitled:

"AN ACT Relating to state government."

I have vetoed section 701(32), which repeals a section of law that is also amended in section 409 of the bill. To allow section 701(32) to become law could create confusion regarding the validity of the amendatory language in section 409.

I am also vetoing section 702. Under the current public disclosure law, agencies may waive the requirement to maintain an index of a variety of records if doing so would be "unduly burdensome." Section 702 amends that law by deleting this waiver option for all final opinions, orders, and statements of policy and interpretations of policy. This amendment would, in effect, require agencies and institutions to maintain indexes that provide identifying information on these kinds of records, regardless of cost or the significance of the indexed records.

I recognize that these indexes, if prepared in sufficient detail, could be useful to both the public and agency officials. However, agencies report that preparation and maintenance of the indexes would be costly. Since it is unlikely that necessary additional appropriations will be made available for indexing, I reluctantly cannot approve this new requirement. I would, however, be willing to work with the Legislature to devise an indexing requirement that would be both prudent from the standpoint of cost and useful in content.

In vetoing section 702, it is also necessary to veto a portion of section 202(3), which stipulates that final orders cannot be relied upon as precedent until they have been indexed. This partial veto is necessary to achieve consistency between the two sections.

With the exception of sections 701(32), 702, and a portion of section 202(3), House Bill No. 1515 is approved."

CHAPTER 289

[Engrossed Substitute House Bill No. 1312]
SUPPLEMENTAL OPERATING BUDGET

AN ACT Relating to fiscal matters; amending RCW 50.16.070, 67.70.040, and 67.70-.190; amending section 104, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 107, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 109, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 110, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 114, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 120, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 121, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 124, chapter 7, Laws

of 1987 1st ex. sess. (uncodified); amending section 131, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 136, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 201, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 202, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 203, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 204, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 205, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 206, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 208, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 209, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 210, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 211, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 212, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 213, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 214, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 217, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 218, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 219, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 223, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 224, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 226, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 229, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 230, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 301, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 302, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 303, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 305, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 308, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 310, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 311, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 312, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 313, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 314, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 316, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 318, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 12, chapter 8, Laws of 1987 1st ex. sess. (uncodified); amending section 401, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 402, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 501, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 503, chapter 7, Laws of 1987 1st ex. sess. as amended by section 1, chapter 1, Laws of 1987 3rd ex. sess. (uncodified); amending section 504, chapter 7, Laws of 1987 1st ex. sess. as amended by section 2, chapter 1, Laws of 1987 3rd ex. sess. (uncodified); amending section 505, chapter 7, Laws of 1987 1st ex. sess. as amended by section 3, chapter 1, Laws of 1987 3rd ex. sess. (uncodified); amending section 506, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 507, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 508, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 509, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 510, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 511, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 513, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 514, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 516, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 601, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 602, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 603, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 604, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 605, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 606, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 607, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 608, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 609, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 701, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 702, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 703, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 705, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 712, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 715, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 717, chapter 7, Laws of 1987 1st ex. sess. (uncodified); amending section 3, chapter 272, Laws of 1987 (uncodified); reenacting and amending section 207, chapter 7, Laws of 1987 1st ex. sess. as amended by section 1, chapter 1, Laws of 1987 2nd ex. sess. and by section 1, chapter 2, Laws of 1987 2nd ex. sess. (uncodified); adding new sections to chapter 7, Laws of 1987 1st ex. sess. (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 104, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund Appropriation ..... $ ((~~2,503,000~~))
2,538,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The committee shall conduct a study of the common school statewide data reporting system, including information on class size in kindergarten through twelfth grade((~~: $100,000 of the general fund appropriation is provided solely to contract with the institute of public policy and management of the University of Washington to conduct research associated with the study. The institute shall work closely with the superintendent of public instruction and the office of financial management to~~)) and prepare a report to the legislature by December 1, 1988, regarding its findings and recommendations.

(2) $35,000 of the general fund appropriation is provided solely for the purpose of creating a temporary legislative committee to review the salary survey methodology and make recommendations for improvements. The committee shall be composed of representatives of the legislative evaluation and accountability program committee, the office of financial management, and the ways and means committees of the senate and house of representatives and shall contract with an independent consultant to conduct the review.

Sec. 102. Section 107, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPREME COURT

General Fund Appropriation ..... $ ((~~10,675,000~~))
10,924,000

The appropriation in this section is subject to the following conditions and limitations: ((~~(1)~~)) $3,337,000 is provided solely for the indigent appeals program.

Sec. 103. Section 109, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE COURT OF APPEALS

General Fund Appropriation ..... $ ((~~12,013,000~~))
12,458,000

Sec. 104. Section 110, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

General Fund Appropriation ..... $ ((~~21,738,000~~)) 23,857,000

Public Safety and Education Account Appropriation ..... $ ((~~18,828,000~~)) 21,178,000

Total Appropriation ..... $ ((~~40,566,000~~)) 45,035,000

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

(1) $4,162,000 of the general fund appropriation is provided solely for the continuation of the treatment alternatives to street crime programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

(2) $296,000 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.

(3) $((~~50,000~~)) 130,000 of the public safety and education account appropriation is provided solely for the administrator for the courts to initiate measures to prevent gender and minority bias in the courts. Such measures shall include but not be limited to:

(a) A study of the status of women and minorities as litigants, attorneys, judges, and court employees;

(b) Recommendations for implementing reform; and

(c) Providing attitude awareness training for judges and legal professionals.

(4) $260,000 of the general fund appropriation is provided solely for the Snohomish County preprosecution diversion program.

(5) $150,000 of the general fund appropriation is provided solely for the administrator for the courts to contract for the performance of a two-year demonstration project to determine the effectiveness of alternative dispute resolution using the model center approach adopted by the legislature in chapter 7.75 RCW. The project shall be conducted in King and Snohomish counties by centers established under chapter 7.75 RCW as nonprofit corporations having broadly representative boards of directors and which are organized exclusively, as set forth in their articles of incorporation and bylaws, for the resolution of disputes and whose plans of operation have been approved pursuant to RCW 7.75.020 before the effective date of this section. The project shall be conducted in accordance with chapter 7.75 RCW. The focus of the project shall be to provide an alternative forum for the resolution of disputes for the purposes of reducing social tensions which lead to crime, promoting lasting settlements in which all parties to a dispute can be winners, settling disputes more quickly and less expensively than

through the judicial process, and helping to reduce congestion in the court systems as contemplated in the court improvement act of 1984. Seventy-five thousand dollars of the appropriation shall be made available for a project in Snohomish county subject to commitments from Snohomish county and the city of Everett to each match the state appropriation. Seventy-five thousand dollars of the appropriation shall be made available for a project in King county subject to commitments from King county and the city of Seattle to each match the state appropriation. The state administrator for the courts shall submit a report to the judiciary committees of the senate and the house of representatives on the results of the project by December 1, 1989.

(6) $14,134,000 of the general fund appropriation is provided solely for the superior court judges program.

(7) $70,000 of the public safety and education account appropriation is provided solely to implement the provisions of Substitute Senate Bill No. 6498. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(8) A maximum of $2,200,000 of the public safety and education account may be spent on enhancements to the judicial information system including: (a) Development of an information center; (b) implementation of a data administration model; (c) provision of personal computer installations and support services in courts not served by the mainframe system; and (d) planning activities associated with the feasibility of the enhancements listed under (a), (b), and (c) of this subsection as well as planning activities to evaluate the use of local area networks. The funding provided in this subsection is contingent on the administrator for the courts completing by July 1, 1988, a feasibility study in accordance with department of information services procedures and guidelines. It is the intent of the legislature that upon completion of the feasibility study the office of the administrator for the courts will present the study for review by and consultation with the department of information services, the office of financial management, and the legislative evaluation and accountability program committee prior to implementation.

Sec. 105. Section 114, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

General Fund Appropriation	$	((~~6,374,000~~)) 6,457,000
Archives and Records Management Account Appropriation	$	2,116,000
Total Appropriation	$	((~~8,490,000~~)) 8,573,000

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

(1) $1,021,000 of the general fund appropriation is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) $1,661,000 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions and the maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

(3) $60,000 of the archives and records management account appropriation is provided solely for a project that will evaluate the need for, and potential archival requirements of, storage of data contained in magnetic media (tapes and disks). Implementation of an archival program for magnetic media shall not begin prior to approval of the findings and recommendations of the project by the office of financial management.

(4) $83,000 of the general fund appropriation is provided solely for advertising Washington state's March 8, 1988, precinct caucuses.

Sec. 106. Section 120, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE ATTORNEY GENERAL

General Fund Appropriation	$	5,143,000
Legal Services Revolving Fund Appropriation	$	46,142,000
Total Appropriation	$	51,285,000

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

(1) $840,000 of the legal services revolving fund appropriation is provided solely to support additional attorneys to defend an increased number of cases expected from an increase in the number of industrial appeals board staff.

(2) $10,233,000 of the legal services revolving fund appropriation is provided solely for legal services augmentation; of which a maximum of $3,933,000, including the state-wide salary increase allocation, is for salary increases consistent with the Price Waterhouse recommendation of March 19, 1987, for assistant attorneys general, $((~~5,000,000~~)) 3,295,000 is for additional funding for the defense of tort actions, $((~~400,000~~)) 700,000 is for increased legal services for the department of corrections and the indeterminate sentence review board, $((~~200,000~~)) 675,000 is for increased legal services for the department of ((~~ecology, $200,000 is for increased legal services for the department of transportation, and~~)) social and health services, $((~~500,000~~)) 1,230,000 is for increased legal services for the department of licensing, and $400,000 is provided solely for implementation of an attorney time accounting and billing system.

(3) Pursuant to chapter 365, Laws of 1985, the attorney general shall transmit to the judiciary committees of the senate and house of representatives and the human rights commission by January 1, 1988, and by January 1 of every year thereafter a progress report which states the agency's progress in meeting its affirmative action goals and timetables. The agency's goals for assistant attorneys general and other exempt employees shall be based on the percentage of each and every minority group's representation in the state labor force population.

(4) No part of the appropriations provided in this section may be used to move any attorney co-located with an agency for which the attorney provides legal services away from the agency without prior approval of the agency and the office of financial management.

(5) The legal services revolving fund program shall be split into an agency legal services program and a torts program beginning July 1, 1989. The agency request budget for the 1989-91 biennium shall be presented using this program structure and expenditure history, consistent with LEAP requirements, no later than July 1, 1988.

Sec. 107. Section 121, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund Appropriation——State	$	((~~18,281,000~~)) 18,131,000
General Fund Appropriation——Federal	$	60,000
Motor Vehicle Fund Appropriation	$	100,000
Medical Aid Fund Appropriation	$	98,000
Local Jail Improvement and Construction Fund Appropriation	$	780,000
Total Appropriation	$	((~~19,319,000~~)) 19,169,000

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

(1) $40,000 of the general fund——state appropriation is provided solely for the services of an actuarial consultant.

(((~~(4) $250,000 of the general fund——state appropriation is provided solely for one-time costs of establishing a state-wide inventory of school facilities, using surveys conducted by qualified engineers and architects. The inventory shall be developed jointly and in cooperation with the state board of education and the superintendent of public instruction and shall be designed to yield consistent and easily accessible information intended to facilitate administrative decisions on school construction projects and analysis of long-term facilities needs.~~

~~(5)~~))) (2) $205,000, of which $145,000 is from the general fund——state appropriation, is provided solely for the purposes of implementing the

agency's responsibilities under Substitute House Bill No. 738. If Substitute House Bill No. 738 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

((~~(6)~~)) (3) The office of financial management, in cooperation with the state board for community college education, shall study the cost of community college faculty salary increments, including savings from full time faculty turnover, identify the faculty salary increment policy at each college district, and report the findings and recommendations to the 1989 regular session of the legislature.

(4) $100,000 of the general fund——state appropriation is provided solely for the operations of the Washington state commission for efficiency and accountability in government.

Sec. 108. Section 124, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF PERSONNEL

Department of Personnel Service Fund Appropriation	$	13,618,000
State Employees' Insurance Fund Appropriation	$	((~~2,164,000~~)) 2,204,000
Total Appropriation	$	((~~15,782,000~~)) 15,822,000

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

(1) $150,000 of the state employees' insurance fund appropriation is provided solely for the revision of the automated insurance eligibility system.

(2) All funds appropriated under this section for lease or lease development office space may be used to lease new office space only if the lease is for a period not exceeding three years and does not extend beyond June 30, 1991.

(3) $40,000 of the state employees' insurance fund appropriation is provided solely for brokerage services.

Sec. 109. Section 131, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Fund Appropriation——State	$	((~~8,312,000~~)) 8,278,000
General Fund Appropriation——Federal	$	1,623,000
General Fund Appropriation——Private/Local	$	93,000
Motor Vehicle Fund Appropriation	$	179,000
State Patrol Highway Account Appropriation	$	124,000
Motor Transport Account Appropriation	$	10,925,000

General Administration Facilities and Services
Revolving Fund Appropriation ..... $ 19,562,000
Total Appropriation ..... $ ((~~40,515,000~~))
40,784,000

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

(1) The motor vehicle fund appropriation and state patrol highway account appropriation are provided solely for risk management activities related to the motor vehicle fund and the state patrol highway account.

(2) The department is authorized to participate in the Olympia parking and business improvement district.

Sec. 110. Section 136, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—— OPERATIONS

Department of Retirement Systems Expense
Fund Appropriation ..... $ 20,666,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $554,000 is provided solely for the purposes of Engrossed Substitute Senate Bill No. 5150.

(2) Not more than $877,000 of this appropriation may be expended for the expenses of the office of the state actuary, including interagency reimbursements for services and statutory reports.

(3) All funds appropriated under this section for lease or lease development office space may be used to lease new office space only if the lease is for a period not exceeding three years and does not extend beyond June 30, 1991.

PART II
HUMAN SERVICES

Sec. 201. Section 201, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

(1) COMMUNITY SERVICES

General Fund Appropriation ..... $ ((~~59,605,000~~))
62,559,000

Public Safety and Education Account Appropriation ..... $ 100,000
Total Appropriation ..... $ 62,659,000

The appropriations in this subsection ((is)) are subject to the following conditions and limitations:

((~~(b)~~)) (a) $2,071,000 of the general fund appropriation is provided solely for the support of the office of the director of community services.

((~~(c)~~)) (b) $200,000 of the general fund appropriation is provided solely for the notification of victims and witnesses of any parole, work release placement, furlough, or unescorted leave of absence from a state correctional facility of any inmate convicted of a violent offense.

((~~(c)~~)) (c) A maximum of $285,000 of the general fund appropriation may be spent for the replacement of used equipment within the community services division.

(d) $100,000 of the public safety and education account appropriation is provided solely for training community corrections officers in the identification and prevention of child abuse by offenders under their supervision.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation ..... $ ((~~269,824,000~~))
273,329,000

The appropriation in this subsection is subject to the following conditions and limitations:

(a) $1,725,000 is provided solely for the implementation of the sex offender treatment program within the division of prisons.

(b) $1,049,000 is provided solely for the operation of the new in-patient floor at the Monroe reformatory hospital.

(c) $5,369,000 is provided solely for the support of the office of the director of the division of prisons.

(d) A maximum of $1,898,000 may be spent for the replacement of used equipment within the institutional services division.

(e) $200,000 is provided solely for alleviation of parking problems experienced by McNeil Island corrections personnel.

(3) ADMINISTRATION AND PROGRAM SUPPORT

General Fund Appropriation ..... $ ((~~17,961,000~~))
17,331,000

Institutional Impact Account Appropriation ..... $ 317,000

Total Appropriation ..... $ ((~~18,278,000~~))
17,648,000

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

(a) The department shall report to the ways and means committees of the senate and house of representatives on January 1, 1988, and January 1, 1989, regarding its progress toward employing more minorities and women in top-level management positions.

(b) A maximum of $1,258,000 of the general fund appropriation may be transferred to the tort claims revolving fund for tort claims against the

department. The department shall develop a report, including brief descriptions and estimated amounts of all outstanding tort claims. The report is due to the ways and means committees of the senate and house of representatives on January 1, 1988. During the 1987–89 biennium, the department shall report on a quarterly basis the tort claim payments resulting from settlements and court judgments. New claims against the state shall be included in the quarterly updates.

((~~(d)~~)) (c) A maximum of $150,000 may be spent for the replacement of used equipment within the administration division.

(4) INSTITUTIONAL INDUSTRIES

General Fund Appropriation ..... $ ((~~2,268,000~~)) 2,218,000

The appropriation in this subsection is subject to the following conditions and limitations: A maximum of $500,000 may be spent for the replacement of used equipment within the institutional industries division.

Sec. 202. Section 202, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(1) Appropriations made in this act to the department of social and health services shall be initially allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act, nor shall allotment modifications permit moneys which are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys except as expressly authorized in this act, unless the services were provided on March 1, 1987. The department may seek, receive, and spend, under RCW 43.79-.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act, and an equal amount of appropriated state general fund moneys shall lapse. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on explicitly defined projects or matched on a formula basis by state funds.

(3) The department of social and health services is authorized to expend federal funds made available by the federal immigration reform and control act, P.L. 99–603, for the purposes contained in that act.

((~~(5)~~)) (4) If Engrossed Senate Bill No. 5097 is enacted by June 30, 1987, the department shall administer the lifeline fund established under

the bill and shall recover its administrative costs from the fund. Payments to local exchange companies shall not exceed amounts available in the lifeline fund.

((~~(6)~~)) (5) The department shall implement the plan for performance-based contracts developed under sections 203(6) and 204(1)(c), chapter 6, Laws of 1985 ex. sess., whereby a portion of vendor payments for private group care and other community residential placements shall reflect achievement of client outcome standards. The department shall report on implementation of the plan to the ways and means committees of the senate and house of representatives by December 15, 1987, and December 15, 1988.

((~~(7)~~)) (6) The appropriations in sections 203, 208, 210, 213, 214, and 215 of this act shall be expended as provided in each section, except that the department may expend money, appropriated for other purposes, for the family independence program only after approval by the director of financial management. The director of financial management shall notify the ways and means committees of the senate and house of representatives regarding deviation from the legislative program appropriation levels.

(7) The department of social and health services shall study the cost effectiveness of adopting a hospice benefit for Title XIX recipients. The department shall report by November 1, 1988, to the health care and ways and means committees of both houses of the legislature on the results of the study.

Sec. 203. Section 203, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES——CHILDREN AND FAMILY SERVICES PROGRAM

General Fund Appropriation——State	$	((~~165,009,000~~)) 180,288,000
General Fund Appropriation——Federal	$	((~~58,552,000~~)) 59,847,000
Public Safety and Education Account Appropriation	$	400,000
Total Appropriation	$	((~~223,561,000~~)) 240,535,000

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

(1) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988. Department contracts for group home services, therapeutic day care, seasonal day care, and domestic violence shelters shall provide for and assure payment of compensation for staff of no less than $4.76 per hour beginning September 1, 1987, and $5.15 per hour beginning September 1, 1988.

(2) $7,500,000 of the general fund——state appropriation is provided solely for the improvement of services to protect children. $5,035,000 of the amount provided in this subsection is provided solely for increased child protective services and child welfare casework staff, necessary support and supervisory staff, and assistant attorneys general to provide legal services for child protective services cases. The department shall conduct intensive recruitment and priority hiring of qualified multi-ethnic casework staff. $40,000 of the amount provided in this subsection is provided solely for training for child protective services and child welfare staff who investigate and serve child abuse and neglect cases. $2,425,000 of the amount provided in this subsection is provided solely to implement the provisions of Engrossed Second Substitute House Bill No. 586 which establish a pilot project in order to guide the state in developing a comprehensive system of children and family services. If the bill is not enacted by June 30, 1987, this amount shall lapse. The department shall report to the ways and means and human services committees of the senate and house of representatives on implementation of this section by January 15, 1988. The report shall include the following information:

(a) The effectiveness of providing additional casework, support staff, and other services provided in this section in reducing and refocusing the workload of child protective services caseworkers;

(b) The impact on caseloads of hiring child protective services support staff, including clerical support, assistant attorneys general, eligibility determination specialists, and public health nurses; and

(c) The number and classifications of staff and the level and types of additional services for which the moneys in this section are used.

(3) $1,000,000 of the general fund——state appropriation is provided solely for the expansion of therapeutic day care.

(4) $2,160,000 of the general fund——state appropriation is provided solely for public health nurses to provide prevention and early intervention services for the protection of children, and to assist in the investigation of low-risk child abuse and neglect referrals.

(5) $600,000 of the general fund——state appropriation is provided solely to increase private agency fees in connection with foster care placements, effective July 1, 1987.

(6) $400,000 of the general fund——state appropriation is provided solely for expansion of current contracted community services to prevent the occurrence or recurrence of family conflict, abuse, or out-of-home placements.

(7) $1,000,000 of the general fund——state appropriation is provided solely for training and support for families providing foster care services.

(8) $((~~300,000~~)) 310,000 of the general fund——state appropriation is provided solely to fund counseling, education, and support for victims of

sexual abuse. A maximum of $10,000 of the amount provided in this subsection may be spent for counseling for teenaged parents who are victims of sexual and physical abuse. The department shall contract for the counseling to be provided to participants in school-sponsored teen parent programs.

(9) $500,000 of the general fund——state appropriation is provided solely to increase contracted Indian child welfare services.

(10) $1,298,000 of the general fund——state appropriation is provided solely for financial eligibility workers to ensure that every child in foster care who is eligible for federal financial participation under Title IV, Part B, or Title IV, Part E of the federal social security act is identified. Any federal moneys generated by this activity in excess of the amount appropriated in this section shall be expended for foster care services and a like amount of state moneys shall lapse.

(11) $93,000 of the general fund——state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 6013. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(12) A maximum of $332,000, of which $275,000 is from the general fund——state appropriation, and 7.8 full time equivalent staff may be transferred from the division of children and family services to the administration and supporting services program to consolidate the social service payment system. If this transfer affects the comparability of historical expenditure information at the program, category, or budget-unit level, the department shall reconstruct historical data for the preceding six years.

(13) $125,000 is provided solely for the purpose of implementing Engrossed Second Substitute Senate Bill No. 5252. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(14) The department shall maintain the current level of support for the dropout prevention project in the Seattle school district.

(15) $9,000,000 of the general fund——state appropriation is provided solely for foster care services and services designed to reduce the number of children requiring family or group foster care, and to expedite the process of returning children home from placement. Not more than $2,450,000 of the amount provided in this subsection may be spent for increased recruitment efforts and services to family foster care providers; additional child welfare caseworkers and support staff to provide intensive case services designed to reunify families and prevent out-of-home placement; managed health care services for children in foster care; and other services meeting the goals of this subsection. Of the amount provided in this subsection, $550,000 is provided solely to expand the homebuilders program to provide assistance to families. The department shall submit a progress report to the appropriate committees of the legislature by January 1, 1989, describing the efforts taken to implement projects to reduce the number of children requiring foster care and to expedite the return to home process. The report shall include

a description of the projects initiated, the cost of each project, and a preliminary assessment of their effectiveness. The department shall also prepare a report which examines the entire foster care rate structure, including provisions for respite or day care services, costs of private agency management of children in care, and the criteria for special and exceptional rates. The department shall coordinate with appropriate legislative fiscal and policy staff in preparing the report and shall submit its findings and recommendations to the legislature by December 1, 1988.

(16) $2,600,000 from the general fund——state appropriation is provided solely to increase the level of funding for day care services. $110,000 of the amount provided in this subsection is for the seasonal day care program to serve an additional 50 children. The department is authorized to implement regulations for the employment day care program requiring that waiting lists be established if necessary to ensure that employment day care services are provided within allotted funds. The department is further authorized to implement day care reimbursement rates which vary by area of the state. $100,000 of the amount provided in this subsection may be spent for pilot day care subsidy programs in one or more areas of the state. The department may provide a monthly subsidy no greater than $50.00 per child to licensed day care providers caring for children of recipients of aid to families with dependent children—regular. Subsidies shall not be provided for children whose parents are employed less than full time.

(17) $1,064,000, of which $200,000 is from the general fund——state appropriation, is provided solely to increase services in the women, infants, and children program.

(18) $100,000 of the general fund——state appropriation is provided solely for the department to develop and provide day care providers and foster parents with an educational program on positive discipline, and training in recognizing and reporting child abuse. Implementation of the program shall begin on July 1, 1988.

(19) $400,000 of the public safety and education account appropriation is provided solely for training programs under chapter 70.125 RCW for criminal justice, medical, and child protective services personnel regarding victims of sexual abuse. Training programs under this subsection shall focus on the following:

(a) Training child protective service workers on recognition of signs of potential sexual abuse and on medical techniques available to confirm abuse or establish legal evidence, and developing policies and procedures for use by such workers in responding to claims or reports of sexual abuse;

(b) Developing regional medical expertise on identification, verification and retention of evidence in cases of child sexual abuse; and

(c) Providing prosecutors, public defenders, judges, and other criminal justice personnel with information on available medical techniques for confirming abuse or establishing legal evidence.

Sec. 204. Section 204, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES

General Fund Appropriation——State	$	((~~27,988,000~~)) 26,847,000
General Fund Appropriation——Federal	$	78,000
Total Appropriation	$	((~~28,066,000~~)) 26,925,000

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

(a) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988. Privately contracted group home providers shall provide for and assure payment of compensation for staff of no less than $4.76 per hour beginning September 1, 1987, and $5.15 per hour beginning September 1, 1988.

(b) The seven state-operated group homes shall collectively average 100 youths in residential status per month. Residential status includes youths in actual residence, those on leave up to 14 days, and those in the process of being transferred or paroled. If the average number of youths in residential status falls below 100 per month, the general fund——state support shall be reduced by an average monthly amount per resident as determined by the office of financial management.

(c) In fiscal year 1989, the department shall not reduce support levels for consolidated juvenile services programs below fiscal year 1988 levels.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation——State	$	((~~44,385,000~~)) 44,285,000
General Fund Appropriation——Federal	$	890,000
Total Appropriation	$	((~~45,275,000~~)) 45,175,000

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

(a) $536,000 of the general fund——state appropriation is provided solely for the implementation of a mentally ill offender unit at Echo Glen children's center.

(b) The department shall develop a ten-year plan to include operating and capital costs of using Green Hill school to house level I and the more serious level II offenders. The plan may include other viable options to handle the increasing numbers of violent offenders entering the juvenile rehabilitation institutions. The plan shall be presented to the ways and means committees of the senate and house of representatives by January 15, 1988.

(3) PROGRAM SUPPORT

General Fund Appropriation——State..... $ 2,788,000

Sec. 205. Section 205, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES

General Fund Appropriation——State..... $ ((~~118,388,000~~)) 113,421,000

General Fund Appropriation——Federal..... $ ((~~40,738,000~~)) 41,442,000

General Fund Appropriation——Local ..... $ 1,580,000

Total Appropriation ..... $ ((~~160,706,000~~)) 156,443,000

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

(a) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988. Community mental health centers and residential services providers shall provide for and assure payment of compensation for staff of no less than $4.76 per hour beginning September 1, 1987, and $5.15 per hour beginning September 1, 1988.

(b) $2,690,000, of which $2,383,000 is from the general fund——state appropriation is provided solely for the Kitsap mental health services residential treatment alternative project. The state reimbursement rate shall not exceed $200 per client day and treatment for individual clients shall not exceed 180 days. All eligible involuntary treatment referrals shall be made to the project. No involuntary treatment referrals of Kitsap county residents may be made to Western state hospital, with the exception of persons who meet all the following criteria, as established by a licensed psychiatrist and involving consultation with a state certificated geriatric mental health specialist: (i) Diagnosis of organic mental disorder (nontransient); (ii) established behavior abnormalities directly associated with the organic disorder; (iii) admittance to the residential treatment center at least twice during the prior six-month period; (iv) expulsion from two or more residential placements during the prior six-month period resulting from behaviors directly associated with the presence of the established organic mental disorder; and (v) denial of admission by all appropriate residential settings in the Puget Sound area. The maximum reimbursement rate to Kitsap county hospitals shall be $250 per day per patient. Within the amount provided in this subsection, in an effort to reduce recommitments to psychiatric hospitals and evaluation and treatment facilities, $500,000, of which $443,000 is from the general fund——state appropriation, is provided solely for a Kitsap mental health services outreach case management team. The services provided shall

include participation with the court in formulation of conditions of conditional release and less restrictive alternative placement, participation in development of an individualized treatment plan with the treatment team, assistance with housing, financial management, medication management, nutrition, system advocacy, mental health services and monitoring the person receiving treatment to ensure that the person abides by the requirements of the person's individualized treatment plan. The case managers shall be mental health professionals, or shall be supervised by mental health professionals as defined in RCW 71.05.020(11). Kitsap mental health services shall participate in the state and county client tracking system required by RCW 71.24.035(4)(h) and 71.24.045(6). Kitsap mental health services shall provide quarterly reports to the committees on ways and means of the senate and house of representatives describing the numbers and characteristics of clients served and the resulting diversions from psychiatric hospitals and evaluation and treatment facilities. In addition, the department shall present an annual report to the same legislative committees by January 1, 1988, and January 1, 1989, indicating progress made toward meeting the long-term residential bed needs of Kitsap county.

(c) $4,375,000, of which $3,500,000 is from the general fund——state appropriation, is provided solely for a state-wide pilot demonstration project as provided for in Second Substitute Senate Bill No. 5074. These funds include 2 percent for costs of administration for participating counties. The plan for the pilot project shall be developed by the department in cooperation with interested counties, mental health providers, other interested members of the community, and legislative staff and shall be submitted to the legislature by September 1, 1987. The plan shall include specific criteria for inclusion in the project for counties choosing to participate and shall meet the conditions set forth in Second Substitute Senate Bill No. 5074. The plan shall provide for evaluation of the effects of case management on the treatment of involuntarily committed persons. The evaluation shall incorporate an experimental design. Evaluation support of no more than $125,000 of the general fund——state appropriation is from the emergency and technical assistance funds provided for in RCW 71.24.155. The plan shall assure that case management services are administered in a manner which recognizes client needs within the availability of funds provided in this subsection (c). If Second Substitute Senate Bill No. 5074 is not enacted by June 30, 1987, the amount provided in this subsection shall be provided solely for case management services for persons ordered to a fourteen-day less restrictive treatment setting as provided for in RCW 71.05.240.

(d) $1,000,000 of the general fund——state appropriation is provided solely for the support of involuntary treatment act administration.

(e) The mental health division, in conjunction with county officials and other affected parties, shall develop a fair and equitable formula for distributing involuntary treatment act administration funding to counties. The

formula shall incorporate workload estimates and any other relevant factors required to reflect actual county administration costs. The mental health division shall present the proposed formula to the ways and means committees of the senate and house of representatives by November 15, 1987. Implementation of the formula may take effect immediately after legislative review but no later than January 1, 1988. Of the funding provided in this section for involuntary treatment act administration, $3,400,000 is placed in reserve status pending legislative review of the new formula. No county allocation of funds for fiscal year 1988 may be less than its fiscal year 1987 allocation. Counties shall continue to fund current maintenance of effort funding levels during the ensuing biennium.

(f) Grants to counties for community mental health programs shall total not less than $55,957,000 of the general fund——state appropriation under RCW 71.24.155. Of this amount, $2,000,000 is provided solely for expanded services to children.

(g) $480,000 of the general fund——state appropriation is provided solely for continuation of the community psychiatric training program at the University of Washington.

(h) The department shall maintain the current level of support for the dropout prevention project in the Seattle school district.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation——State	$	((~~150,711,000~~)) 150,808,000
General Fund Appropriation——Federal	$	((~~7,948,000~~)) 7,851,000
Total Appropriation	$	158,659,000

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

((~~(b)~~)) (a) $300,000 of the general fund——state appropriation is provided solely for equipment and operating costs related to two additional PORTAL cottages on the Northern state hospital campus. Of this amount, a maximum of $44,000 may be used to contract with local community mental health centers to provide services to clients who have exited the PORTAL program and reside locally in the community.

((~~(c)~~)) (b) The legislative budget committee shall evaluate the PORTAL program as to its treatment outcomes and general effectiveness. The legislative budget committee shall report its findings to the senate and house of representatives ways and means committees by December 1, 1987.

(3) PROGRAM SUPPORT

General Fund Appropriation——State	$	3,477,000
General Fund Appropriation——Federal	$	1,341,000
Total Appropriation	$	4,818,000

The appropriations in this subsection are subject to the following conditions and limitations: $78,600 from the general fund——state appropriation is provided solely for allocations to nonprofit agencies advocating for the mentally ill. Such funds are for providing technical assistance to state agencies, mental health education programs, outreach and family support, and self-help support groups.

(4) SPECIAL PROJECTS

General Fund Appropriation——Federal ..... $ 1,059,000

Sec. 206. Section 206, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES

General Fund Appropriation——State ..... $ ((~~79,041,000~~)) 80,944,000

General Fund Appropriation——Federal ..... $ ((~~61,998,000~~)) 62,524,000

Total Appropriation ..... $ ((~~141,039,000~~)) 143,468,000

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

(a) $278,000 of the general fund——state appropriation is provided solely for the deaf-blind service center.

(b) $2,185,000 of the general fund——state appropriation and $385,000 of the general fund——federal appropriation are provided solely to increase rates paid for county contracted employment services for developmentally disabled adults receiving such services as of July 1, 1987. No county administrative charge shall be deducted from the amount specified in this subparagraph.

(c) The division of developmental disabilities shall fund the DECOD dental program at the University of Washington with $224,000 of the general fund——state appropriation.

(d) 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 the level of services to existing clients.

(e) $1,169,000 is appropriated solely for the division of developmental disabilities to contract for an additional twenty-four group home beds and associated services in King county.

(f) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988. Respite care providers shall provide for and assure payment of compensation for staff of no less than

$4.76 per hour beginning September 1, 1987, and $5.15 per hour beginning September 1, 1988.

(g) $1,400,000 of the general fund——state appropriation is provided solely to fund additional staff at the Bellevue center, Highline care center, and the united cerebral palsy center; and to provide additional support for an autism program in Pierce county, a teletype relay system at the Yakima valley center for the deaf, the L'Arche facility in Spokane, the Sunnyhaven facility, and the Sumner lodge.

(2) INSTITUTIONAL SERVICES

General Fund Appropriation——State	$	((~~100,635,000~~)) 98,402,000
General Fund Appropriation——Federal	$	((~~94,952,000~~)) 100,885,000
Total Appropriation	$	((~~195,587,000~~)) 199,287,000

(3) SPECIAL PROJECTS

General Fund Appropriation——Federal	$	1,199,000
Total Appropriation	$	1,199,000

(4) PROGRAM SUPPORT

General Fund Appropriation——State	$	3,991,000
General Fund Appropriation——Federal	$	479,000
Total Appropriation	$	4,470,000

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

(a) A maximum of $46,000, of which $38,000 is from the general fund——state appropriation, and two biennial full time equivalent staff may be transferred from the division of developmental disabilities to the administration and supporting services program to consolidate the social service payment system. If this transfer affects the comparability of historical expenditure information at the program, category, or budget-unit level, the department shall reconstruct historical data for the preceding six years.

(b) If Engrossed Second Substitute House Bill No. 221 is enacted by June 30, 1987, the department is authorized to expend the proceeds of the telecommunication devices for the deaf excise tax established under the bill for the distribution and maintenance of telecommunication devices, signal devices, and amplifying accessories to hearing-impaired persons as provided in the bill.

Sec. 207. Section 207, chapter 7, Laws of 1987 1st ex. sess. as amended by section 1, chapter 1, Laws of 1987 2nd ex. sess. and by section 1, chapter 2, Laws of 1987 2nd ex. sess. (uncodified) is reenacted and amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES——LONG-TERM CARE SERVICES

General Fund Appropriation——State ..... $ ((~~330,946,000~~)) 337,886,000

General Fund Appropriation——Federal ..... $ ((~~334,686,000~~)) 339,370,000

Total Appropriation ..... $ ((~~665,632,000~~)) 677,256,000

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) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988, for the adult residential care, contracted chore, adult day health, and senior citizens services act programs.

(3) $3,000,000 of which $1,400,000 is from the general fund——state appropriation is provided solely for nonadministrative wages and benefits enhancements above the money necessary to fund the minimum wage.

(4) Department-contracted nursing homes shall provide for and assure payment of compensation for staff of no less than $4.76 per hour beginning January 1, 1988, and $5.15 per hour beginning January 1, 1989.

(5) $3,000,000 of the general fund——state appropriation, and $1,500,000 of the general fund——federal appropriation, are provided solely to increase the number of persons served in the chore services program and the community options program entry system (COPES). To the extent possible, the department shall maximize use of the community options program entry system for all new clients requiring chore or personal care services.

(6) Nursing home rates shall be adjusted for inflation under RCW 74-.46.495 by 3.7 percent on July 1, 1987 and 3.6 percent on July 1, 1988.

(7) $650,000, of which $312,000 is from the general fund——state appropriation, is provided solely for laundry services to state clients residing in skilled nursing facilities and intermediate care facilities.

(8) Grant payment standards shall be increased by 2.0 percent on September 1, 1987 and 4.0 percent on September 1, 1989, for adult residential care clients.

(9) $1,090,000 of the general fund——state appropriation is provided solely for the respite care demonstration project.

(10) At least $((~~14,766,000~~)) 14,966,000 of 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~~)) $1,265,000 of the amount provided

in this subsection 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.

(11) The department shall encourage the development of working agreements between county mental health authorities, mental health providers, and the area agencies on aging which provide access to comprehensive treatment for geriatric mentally ill persons.

Sec. 208. Section 208, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES——INCOME ASSISTANCE PROGRAM

General Fund Appropriation——State ..... $ ((~~465,361,000~~)) 454,658,000

General Fund Appropriation——Federal ..... $ ((~~442,371,000~~)) 405,514,000

Total Appropriation ..... $ ((~~907,732,000~~)) 860,172,000

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

(1) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988.

(2) The department shall continue the aid to families with dependent children program for two-parent families through June 30, 1989.

(3) 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.

(4) $5,316,000, of which $2,658,000 is from the general fund——state appropriation, is provided solely to increase day care, transportation, and other support services for participants in the opportunities program.

(5) Payment levels in the aid to families with dependent children, general assistance, and refugee assistance programs shall contain an energy allowance to offset the costs of energy and such allowance shall be excluded from consideration as income for the purpose of determining eligibility and

benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to $150,000,000 is so designated for exemptions of the following amounts:

Family size:	1	2	3	4	5	6	7	8 or more
Exemption:	$30	39	46	56	63	72	84	92

(6) Persons who are unemployable due to alcohol or drug addiction who are not otherwise eligible for general assistance shall be referred to the alcoholism and drug addiction treatment and support program established by Substitute House Bill No. 646.

Sec. 209. Section 209, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

General Fund Appropriation——State	$	((~~62,580,000~~)) 61,180,000
General Fund Appropriation——Federal	$	16,866,000
General Fund Appropriation——Local	$	166,000
Total Appropriation	$	((~~79,612,000~~)) 78,212,000

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

(1) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988.

(2) $195,000 of the general fund——state appropriation is provided solely to increase the annual base level of grants for county alcohol and drug abuse treatment services to $40,000 per county.

(3) $((~~24,565,000~~)) 23,165,000 of the general fund——state appropriation is provided solely for implementation of ((~~Substitute House Bill No. 646, establishing~~)) the alcohol and drug addiction treatment and support act. ((~~If Substitute House Bill No. 646 is not enacted by July 1, 1987, the funds in this subsection shall be transferred to the division of income assistance.~~

~~(5) The department shall report to the appropriate committees of the legislature by January 5, 1988, on implementation of the alcohol and drug addiction treatment and shelter act. The report shall include at least the following information:~~

~~(a) The number of persons receiving client assessment services, including the number receiving assistance in the application process for supplemental security income benefits;~~

~~(b) The number of persons receiving treatment services, including the number receiving inpatient and outpatient treatment, and the number receiving a living allowance while undergoing outpatient treatment;~~

~~(c) The number of persons receiving shelter services and the type of shelter services provided;~~

~~(d) The number of applicants for general assistance payments referred to the program and the number of recipients of general assistance transferred to the program; and~~

~~(e) An assessment of the need to revise projected funding levels of $2,700,000 for client assessment services, $11,378,000 for treatment services, and $10,487,000 for shelter services.~~))

Sec. 210. Section 210, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

General Fund Appropriation——State ..... $ ((~~528,288,000~~)) 540,548,000

General Fund Appropriation——Federal ..... $ ((~~481,926,000~~)) 473,933,000

Total Appropriation ..... $ ((~~1,010,214,000~~)) 1,014,481,000

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

(1) $13,864,000 of the general fund——state appropriation and $16,927,000 of the general fund——federal appropriation are provided solely for an adult dental program for Title XIX categorically eligible and medically needy persons, effective January 1, 1988. If Substitute House Bill No. 1225 is enacted by June 30, 1987, the department shall by January 1, 1989, enroll 20,000 categorically eligible and medically needy persons in prepaid capitated dental programs.

(2) The department of social and health services may increase the medically needy income level under RCW 74.09.700 to the maximum level allowable for federal financial participation under Title XIX of the federal social security act within funds appropriated for this purpose.

(3) $8,338,000 of the general fund——state appropriation and $9,823,000 of the general fund——federal appropriation are provided solely for medical assistance for categorically needy pregnant women and children up to two years of age whose household income does not exceed 90 percent of the federal poverty level, whose resources do not exceed reasonable standards established by the department, and whose coverage qualifies for federal financial participation under Title XIX of the federal social security act. Any part of the amounts provided in this subsection which are not needed for the purposes of this subsection may be spent for the purposes outlined in subsection (2) of this section.

(4) Vendor rate increases shall average 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988.

(5) $3,000,000 of the general fund——state appropriation is provided solely for matching grants to hospitals under Engrossed Second Substitute House Bill No. 477. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(6) The department may provide payment for chiropractic services under RCW 74.09.035 and 74.09.520.

(7) The department is authorized under 42 U.S.C. Sec. 1396b(a)(1) to pay third party health insurance premiums for categorically needy medical assistance recipients upon a determination that payment of the health insurance premium is cost effective. In determining cost effectiveness, the department shall compare the amount, duration, and scope of coverage offered under the medical assistance program.

(8) The department is authorized to provide community-based long-term care services to persons with AIDS or AIDS-related conditions, on the condition that the department obtain a waiver under section 1915(c) (1) and (2) of the federal social security act.

Sec. 211. Section 211, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

General Fund Appropriation——State	$	((~~58,177,000~~)) 63,001,000
General Fund Appropriation——Federal	$	((~~73,551,000~~)) 75,132,000
General Fund Appropriation——Local	$	((~~8,025,000~~)) 8,967,000
Public Safety and Education Account Appropriation	$	200,000
Total Appropriation	$	((~~139,753,000~~)) 147,300,000

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

(1) Vendor rates shall be increased by 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988.

(2) Public and private community health clinics providing dental services under this section shall give priority to populations that lack access to federally supported dental services. The department shall prepare contracts which implement this requirement.

(3) $1,919,000 of the general fund——state appropriation is provided solely to carry out the department's responsibilities contained in the Puget Sound water quality plan and perform corresponding state-wide activities, including $50,000 for a review of the alternative on-site sewage program at both the state and local levels. The review shall address, but not be limited

to, the process and procedures associated with the review and application of alternative systems. Recommendations shall include, but not be limited to:

(a) Ways to expedite review of applications;

(b) Changes in rules and statutes to address unique alternative on-site system applications;

(c) Staffing and resources required to implement an effective alternative on-site program; and

(d) Any additional issues that are necessary for an effective and efficient alternative on-site sewage system program.

The department shall report to the legislature no later than January 30, 1988.

(4) $5,500,000 of the general fund——state 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.

(5) A maximum of $86,842,000, of which $24,437,000 is from the general fund——state appropriation, and 132 biennial full time equivalent staff may be transferred from the public health program to the division of children and family services to provide parent and child health services, dental health care for children, women, infant and children services, crippled children's services, nutrition services to children, family planning services, and program and category support services. If this transfer affects the comparability of historical expenditure information at the program, category, or budget-unit level, the department shall reconstruct historical data for the preceding six fiscal years.

(6) $3,100,000 of the general fund——state appropriation is provided solely to continue the kidney disease program.

(7) $300,000 of the general fund——state appropriation is provided solely to enhance high-risk infant tracking.

(8) $41,000 of the general fund——state appropriation is provided solely to expand PKU testing.

(9) $1,500,000, of which $300,000 is from the general fund——state appropriation, is provided solely for enhancing the women, infants, and children programs.

(10) $850,000 of the general fund——local appropriation is provided solely for the monitoring and enforcement of emissions of radionuclides to the air, pursuant to chapter 70.94 RCW.

(11) A maximum of $300,000 from the general fund——state appropriation may be spent for the purposes of establishing a centralized AIDS unit within the division of public health. This unit shall be responsible for pursuing activities to maximize the receipt of federal and private sources of funding, program coordination, and development of the implementation plan.

(12) $50,000 of the general fund——state appropriation is provided solely for the state board of health to promulgate necessary rules and establish reporting requirements on sexually transmitted diseases, including the clinical syndrome of HIV-related illness.

(13) $4,250,000 from the general fund——state appropriation and $200,000 of the public safety and education account appropriation are provided solely to fund the regional AIDS service network.

(a) Seventy-five percent of the amount provided in this subsection shall be allocated per capita based on the number of persons residing within each region, but in no case less than one hundred fifty thousand dollars for each regional AIDS network per fiscal year. This amount shall be expended for testing, counseling, education, case management, notification of sexual partners of infected persons, planning, coordination, and other services.

(b) Twenty-five percent of the amount provided in this subsection shall be allocated for intervention strategies specifically addressing groups that are at a high risk of being infected with the human immunodeficiency virus. The allocation shall be made by the office on AIDS based on documented need as specified in regional AIDS network plans.

(14) $100,000 of the general fund——state appropriation is provided solely for enhancing health services provided through public and private community health clinics.

(15) $516,000 of the general fund——state appropriation is provided solely to sustain current radiation monitoring.

Sec. 212. Section 212, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

General Fund Appropriation——State..... $ ((~~13,583,000~~)) 12,783,000

General Fund Appropriation——Federal..... $ ((~~32,654,000~~)) 36,110,000

Total Appropriation..... $ ((~~46,237,000~~)) 48,893,000

The appropriations in this section are subject to the following condition and limitations: Vendor rates shall be increased by 2.0 percent on September 1, 1987, and 4.0 percent on September 1, 1988.

Sec. 213. Section 213, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

General Fund Appropriation——State..... $ ((~~46,280,000~~)) 43,630,000

General Fund Appropriation——Federal ..... $ 32,045,000
Institutional Impact Account Appropriation ..... $ 78,000
Total Appropriation ..... $ ((~~78,403,000~~))
75,753,000

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

(1) $108,000 of the general fund——state appropriation is transferred within the office of constituent relations for an additional 2 biennial FTE staff for the office of the long-term care ombudsman.

(2) $1,000,000 of the general fund——state appropriation and $1,000,000 of the general fund——federal appropriation may be transferred from sections referenced in section 202(7) of this act solely for the evaluation of the aid to families with dependent children and the family independence programs as provided in Engrossed Second Substitute House Bill No. 448. The department may contract with objective independent evaluators subject to legislative budget committee approval, as specified in Engrossed Second Substitute House Bill No. 448. The department shall contract with the Washington state institute for public policy to conduct a longitudinal study of public assistance recipients. $652,000 of the general fund——state moneys and $652,000 of the general fund——federal moneys provided in this subsection are provided solely for the longitudinal study.

(3) $50,000 of the general fund——state appropriation is provided solely for the Washington council for the prevention of child abuse and neglect to establish voluntary community-based programs on early parenting skills in at least three geographically balanced areas around the state. The programs shall be designed to serve families with children ranging from infants through three years old and also to serve expectant parents.

(4) The department may transfer up to $2,700,000 of the general fund——state appropriations for its various programs into the administration and support services program. The department may transfer out of each program only those amounts attributable to reductions in administrative costs.

Sec. 214. Section 214, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

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

General Fund Appropriation——State ..... $ ((~~156,570,000~~))
156,770,000
General Fund Appropriation——Federal ..... $ ((~~174,029,000~~))
174,529,000
General Fund Appropriation——Local ..... $ 705,000

Total Appropriation ..... $ ((~~331,304,000~~))
332,004,000

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

(1) $283,000 of the general fund——state appropriation and $270,000 of the general fund——federal appropriation are provided solely for administrative costs associated with the provision of medical assistance to categorically needy pregnant women and children up to two years of age whose household income does not exceed 90 percent of the federal poverty level, whose incomes do not exceed reasonable standards established by the department, and whose coverage qualifies for federal financial participation under Title XIX of the federal social security act.

(2) $4,922,000, of which $2,461,000 is from the general fund——state appropriation, is provided solely to increase services for participants in the opportunities program.

(3) $69,000 of the general fund——state appropriation and $70,000 of the general fund——federal appropriation are provided solely for discharge planning case management for clients in nursing homes, congregate care facilities, and adult family homes.

(4) $708,000 of the general fund——state appropriation is provided solely for establishing a supplemental security income referral pilot program as provided for in Engrossed Substitute House Bill No. 665.

(5) A maximum of $554,000, of which $460,000 is from the general fund——state appropriation, and 14.2 biennial full time equivalent staff may be transferred from the community services administration program to the administration and supporting services program to consolidate the social service payment system.

(6) If any transfer under this section affects the comparability of historical expenditure information at the program, category or budget–unit level, the department shall reconstruct historical data for the preceding six fiscal years.

(7) The department shall submit a plan to the human services committees of the senate and house of representatives by January 15, 1988, regarding continuation of services provided at its satellite office at 2106 Second Avenue, Seattle. The plan shall identify any proposed changes to the service level in effect on July 1, 1988, and methods of assuring reasonable access to a full array of services for area clients.

(8) $350,000 of the general fund——state appropriation is provided solely for providing matching grants on a one–to–one state/local basis to regional health councils as established in RCW 70.38.085, or to the successor agencies. Grants shall be distributed equitably on the basis of need in order to preserve regional health planning.

Sec. 215. Section 217, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

General Fund Appropriation——State	$	((~~32,765,000~~)) 34,357,000
General Fund Appropriation——Federal	$	((~~143,939,000~~)) 143,389,000
Building Code Council Account Appropriation	$	407,000
Fire Service Training Account Appropriation	$	500,000
Low Income Weatherization Account Appropriation	$	((~~4,000,000~~)) 6,000,000
Total Appropriation	$	((~~181,611,000~~)) 184,653,000

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

(1) $3,576,000 of the general fund——state appropriation is provided solely for grants to public and private nonprofit organizations to operate food banks, food distribution centers, and emergency shelters.

(2) $100,000 of the general fund——state appropriation may be used for increased department administrative staff if the department receives federal grants in excess of $1,000,000 under U.S. House of Representatives Resolution 558. If the department does not receive grants of at least $1,000,000, the amount provided in this subsection shall lapse.

(3) $12,136,000 of the general fund——state appropriation is provided solely for early childhood education and assistance programs under Substitute Senate Bill No. 5476 or Engrossed Second Substitute House Bill No. 456. These moneys shall be used to provide services to at least 2,000 children. If neither bill is enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(4) The department shall conduct a state-wide housing needs study. The study, with preliminary recommendations, shall be submitted to the housing committee of the house of representatives and the commerce and labor committee of the senate no later than December 31, 1987, and a final report shall be submitted by December 31, 1988.

(5) $325,000 of the general fund——state appropriation is provided solely for pilot demonstrations and development of model vocational programs, including a study of a technology demonstration skills center, in Lewis county.

(6) $708,000 of the general fund——state appropriation is provided solely for grants to public broadcast stations under section 3 of Engrossed Substitute Senate Bill No. 5285. $42,000 of the general fund——state appropriation is provided solely for grants to public broadcast stations under section 4 of Engrossed Substitute Senate Bill No. 5285. If the bill is not

enacted by June 30, 1987, the amounts provided in this subsection shall lapse.

(7) The department shall review the needs of low-income migrant and seasonal workers. To the extent that funds are available, the legislature encourages the department to give special attention to low-income migrant and seasonal workers.

(8) $360,000 of the general fund——state appropriation is provided solely for grants to three nonprofit agencies and local government agencies for local reemployment centers. In order to provide a breadth of experience and geographic dispersion, one center shall be located in King county, one center shall be located in a southwest Washington county in which the unemployment rate was at least 20 percent above the state average during the preceding calendar year, and one center shall be located in an eastern Washington standard metropolitan statistical area in which the unemployment rate was at least 20 percent above the state average during the preceding calendar year. Each center shall provide direct and referral services to the unemployed. These services may include reemployment assistance, medical services, social services including marital counseling, psychotherapy, mortgage foreclosure and utility problem counseling, drug and alcohol abuse counseling, credit counseling, and other services deemed appropriate. These services are designed to supplement and not supplant the on-going efforts of local job centers administered by the employment security department. Each grant recipient must match state dollars on a one-for-one basis with nonstate dollars.

(9) $118,000 of the general fund——state appropriation is provided solely for a study to determine the economic contribution of sport and commercial salmon and sturgeon fishing.

(10) $100,000 of the general fund——state appropriation is provided solely to implement Substitute House Bill No. 430. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(11) $173,000 of the general fund——state appropriation is provided solely for a study of the uses, structure, and operation of a state-wide video telecommunications network. The department shall submit a report to the house of representatives and senate by January 1, 1989, recommending a plan for using video telecommunications in state government and assessing the potential of a state-wide public affairs satellite/cable television network broadcasting programs on state government to Washington state citizens. The department shall consult with the telecommunications division of the department of general administration for technical assistance in preparing this report.

(12) $250,000 of the general fund——state appropriation is provided solely for the border town impact mitigation program.

(13) $25,000 is provided solely for the purpose of implementing Engrossed Second Substitute Senate Bill No. 5252. If Engrossed Second Substitute Senate Bill No. 5252 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(14) In addition to the fee imposed under RCW 19.27.085, there is imposed through June 30, 1989, a fee of two dollars on each building permit issued by a county or a city. Quarterly, each county and city shall remit moneys collected under this subsection to the state treasury for deposit in the building code council account. However, no remittance is required until at least fifty dollars has accumulated pursuant to this subsection.

(15) $((~~187,000~~)) 212,000 of the general fund——state appropriation is provided solely for technical assistance to Okanogan county for the preparation of plans and permits, including enforcement, relating to winter sports facilities development.

(16) $58,000 of the general fund——state appropriation is provided solely for the state's share of the cost of the acquisition, installation, and maintenance of a Mt. St. Helen's flood warning system in Cowlitz county.

(17) $125,000 of the general fund——state appropriation is provided solely for grants to the city of Omak and Okanogan county for enhanced surveillance and investigation needed because of school-related arson incidents. The department shall make grants based on demonstration of impact by the city and county.

(18) $45,000 of the general fund——state appropriation is provided solely for a study assessing the positive and negative economic impacts of state correctional institutions on communities in which they are located. A report on the findings of the study shall be made to the legislature no later than December 31, 1988.

(19) $250,000 of the general fund——state appropriation is provided solely for continuing Lewis county pilot demonstrations and model vocational programs under subsection (5) of this section, including such projects as career education and assessment, technology partnership on-site programs, centers for teaching the principles of technology, and a business partnership in medical technology program.

(20) $30,000 of the general fund——state appropriation is provided solely for gathering, developing, and disseminating informational materials on the impacts of seismic occurrences and ways to protect people and property from them, and for other work to increase the public's awareness of the potential for a seismic event, including but not limited to, audio, visual, and written information, meetings, workshops, and seminars.

(21) $1,000,000 of the general fund appropriation is provided solely for deposit in the housing trust fund under chapter 43.185 RCW for eligible housing activities to benefit the homeless. This may include the funding of shelters and transitional and permanent housing for homeless families and individuals.

(22) The department shall develop an analysis and report on homelessness and self-sufficiency in the manner specified in Substitute House Bill No. 1564 as passed by the house of representatives.

Sec. 216. Section 218, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

General Fund Appropriation——State	$	((~~17,889,000~~)) 17,769,000
General Fund Appropriation——Federal	$	4,690,000
General Fund Appropriation——Local	$	6,167,000
Total Appropriation	$	((~~28,746,000~~)) 28,626,000

Sec. 217. Section 219, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE HUMAN RIGHTS COMMISSION

General Fund Appropriation——State	$	((~~3,199,000~~)) 3,258,000
General Fund Appropriation——Federal	$	964,000
Total Appropriation	$	((~~4,163,000~~))) 4,222,000

Sec. 218. Section 223, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund Appropriation	$	((~~8,384,000~~)) 8,227,000
Public Safety and Education Account Appropriation	$	10,866,000
Accident Fund Appropriation	$	((~~85,037,000~~)) 85,159,000
Electrical License Fund Appropriation	$	((~~9,620,000~~)) 9,907,000
Farm Labor Revolving Account Appropriation	$	((~~292,000~~)) 58,000
Medical Aid Fund Appropriation	$	((~~81,983,000~~)) 82,105,000
Plumbing Certificate Fund Appropriation	$	((~~640,000~~)) 660,000
Pressure Systems Safety Fund Appropriation	$	((~~1,111,000~~)) 1,148,000
Worker and Community Right to Know Fund Appropriation	$	2,059,000
Total Appropriation	$	((~~199,992,000~~)) 200,190,000

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

(1) The department shall study the feasibility of establishing an independent ((~~ombuds~~)) ombudsman office to aid employers and employees, including self-insured employees, in dealing with the workers' compensation system. The study shall include an evaluation of the need for the office, the recommended functions of the office, and the mechanisms for oversight and funding. The department shall submit its findings and recommendations to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(2) The department shall evaluate the effectiveness of the workers' compensation vocational rehabilitation program, including the effectiveness of a worker resource center to provide injured worker adjustment services. The study shall be conducted in consultation with the workers' compensation advisory committee and interested groups representing injured workers, labor, and employers. The department shall submit its findings and recommendations to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(3) The department shall study, in cooperation with the employment security department and the department of social and health services, the potential impact in the state of a state minimum wage based on ninety percent of the federal poverty level. The results of the study shall be submitted to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(4) The department shall prepare a report on workers' compensation caseload information including, but not limited to, the average number of claims by type by adjudicator compared to optimal caseloads used in the private sector and any recommendations concerning improvement of caseloads. The report shall be submitted to the commerce and labor committees of the senate and house of representatives by January 11, 1988.

(5) All funds appropriated under this section for lease or lease development office space may be used to lease new office space only if the lease is for a period not exceeding three years and does not extend beyond June 30, 1991.

(6) The department shall establish an office of information and assistance to aid workers, employers, health care providers, and other department clients. The department shall report on the activities of the office to the appropriate committees of the legislature by January 1, 1989.

Sec. 219. Section 224, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE INDETERMINATE SENTENCE REVIEW BOARD

General Fund Appropriation ..... $ ((~~4,042,000~~)) 3,804,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $166,000 is provided solely for payments to private attorneys representing indigent parolees.

(2) $727,000 is provided solely for addressing inmate litigation resulting from the transition from the indeterminate sentencing laws to the determinate sentencing laws and to enable the board to review all remaining cases falling under the indeterminate sentencing laws.

(3) ((~~Of the amount provided in subsection (2) of this section, $363,500 shall be placed in reserve status until the legislature authorizes its release.~~)) The board shall report to the legislature on January 1, 1988, regarding its progress toward completing at least one-half of the workload outlined in subsection (2) of this section. It is the intent of the legislature that the indeterminate sentencing review board terminate on June 30, 1989, and any remaining functions transfer to the department of corrections and the judiciary.

Sec. 220. Section 226, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund Appropriation——State	$	5,700,000
General Fund Appropriation——Federal	$	146,257,000
General Fund Appropriation——Local	$	18,373,000
Administrative Contingency Fund Appropriation——Federal	$	((~~6,918,000~~)) 8,353,000
Unemployment Compensation Administration Fund Appropriation——Federal	$	110,569,000
Employment Service Administration Account Appropriation——Federal	$	2,334,000
Federal Interest Payment Fund Appropriation	$	2,080,000
Total Appropriation	$	((~~290,151,000~~)) 293,666,000

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

(1) The department shall submit a plan to the commerce and labor committees of the senate and house of representatives by January 15, 1988, regarding continuation of services provided at its satellite office at 2106 Second Avenue, Seattle. The plan shall identify any proposed changes to the service level in effect on July 1, 1988, and methods of assuring reasonable access to a full array of services for area clients.

(2) The department shall produce local area labor market information packages for the state's economically distressed counties.

(3) $75,000 of the administrative contingency fund——federal appropriation is provided solely for a computerized database of labor market information that is accessible by telephone to employers, economic development organizations, and employee organizations.

(4) $150,000 of the administrative contingency fund——federal appropriation is provided solely to establish Washington service corps internship positions with private corporations for young adults from eighteen to twenty-five years of age, especially members of ethnic minority groups or enrollees in the family independence program. Internship positions shall be part-time during the school year and full-time during the summer.

(5) The department shall produce an annual state economic report to the legislature and the governor that includes but is not limited to:

(a) Identification and analysis of industries in the United States, Washington state, and local labor markets with high levels of seasonal, cyclical, and structural unemployment;

(b) The industries and local labor markets with plant closures and mass lay-offs and the number of affected workers;

(c) An analysis of the major causes of plant closures and mass lay-offs;

(d) The number of dislocated workers and persons who have exhausted their unemployment benefits, classified by industry, occupation, and local labor markets;

(e) The experience of the unemployed in their efforts to become reemployed. This should include research conducted on the continuous wage and benefit history;

(f) Five-year industry and occupational employment projections; and

(g) Annual and hourly average wage rates by industry and occupation.

((~~(4)~~)) (6) The department shall establish a counter-cyclical employment program.

(a) This program shall provide employment for unemployed forest product workers. "Forest products industries" means industries within the standard industrial classification code numbers 8, 24, and 26. The program shall operate, on a pilot basis in two locations in Washington state, with preference given to distressed areas in the state.

(b) Eligibility for employment under the counter-cyclical employment program shall occur only upon exhaustion of unemployment insurance benefits received upon termination of employment in the Washington forest products industry and eligibility shall be limited to only those persons who are either currently unemployed, employed part time, or whose employment in the Washington forest products industry was terminated within the previous year. No one shall be employed by the program for longer than six months in a two-year period, except as to administrative and supervisory employees.

(c) The program shall begin after completion of two consecutive quarters of below-average employment in forest products industries in

Washington state and shall cease sixty days after the completion of two consecutive quarters of above-average timber products employment in Washington state. If, on the effective date of this act, forest products employment in the state has been below average for two consecutive quarters, the program shall begin immediately. In order to determine average forest products employment, the department shall calculate the trend of forest products employment in Washington state by the number of forest products employees, as reported by the department, during the fifteen years prior to the date the calculation is made. "Average forest products employment" means the level of employment indicated by this trend line.

(d) Employment under the counter-cyclical employment program shall consist of activities which enhance the value of state, county, and local government lands and waters and associated improvements, with priority given to enhancing state lands and waters. Eligible activities shall include, but are not limited to, thinning, slash removal, reforestation, fire suppression, trail maintenance, maintenance of recreational facilities, dike repair, tourist facilities, stream enhancement, water quality enhancement, irrigation repair, and the building of shellfish beds.

(e) Employees under the counter-cyclical employment program, except administrative employees, shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave and civil service. Employees under the program shall receive the same medical and dental benefits and holiday and vacation benefits as state employees. Compensation for employees under the counter-cyclical employment program shall be at least eight dollars per hour of employment, except as to administrative and supervisory personnel. Employment under the program shall not result in the displacement or partial displacement, such as reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services. The services of counter-cyclical employment members are exempt from unemployment compensation coverage under RCW 50.44.040 and the members shall be so advised by the department.

(f) The department shall administer the program in consultation with the state natural resource agencies. The employment security department may enter into contracts and agreements with state agencies and private and public individuals and organizations to carry out the program.

((~~(5)~~)) (7) $120,000 of the administrative contingency fund——federal appropriation is provided solely for a reemployment bonus demonstration project, contingent on the availability of federal or private funding of no less than $500,000. The employment security department shall evaluate the effectiveness of the reemployment bonus in returning unemployed workers to employment and report to the commerce and labor committees of the

senate and house of representatives by January 15, 1989. If federal or private moneys do not become available before June 30, 1988, the amount provided in this subsection shall lapse.

(8) $670,000 of the administrative contingency fund——federal appropriation is provided solely for transfer through interagency agreement as follows:

(a) $300,000 to the department of trade and economic development for the establishment of a business and job retention program. No more than $75,000 of the amount provided in this subsection (a) may be used for administrative costs including staff to carry out the responsibilities under this subsection (a). The director of the department of trade and economic development shall appoint six people to an advisory committee by July 1, 1988, including equal representation from business and labor, and may also appoint up to four additional nonvoting members from other interested parties. No more than $5,000 of the amount provided in this subsection (a) may be used for the advisory committee. The department of trade and economic development shall select, with the approval of the advisory committee, local organizations to undertake local business and job retention activities, including: The identification of local firms at risk of closure, mass layoff, or relocation out-of-state through the administration of local business surveys or other appropriate methods; initial assessments of firms or workforces; and the coordination and provision of technical and training assistance to businesses, unions, employee groups, and workforces. A minimum of $170,000 of the amount provided in this subsection (a) shall be used for contracts to local development organizations for local business and job retention activities. The department of trade and economic development shall: (i) Provide training programs for local organizations that receive contracts for local business and job retention activities and for other interested parties such as local government, unions, and community-based economic development organizations, including training in the use of local business surveys and other methods of identifying and assessing firms at risk of shutdown, mass layoff, or relocation out of state; (ii) develop model local business surveys to gather information about business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, and other appropriate information; and (iii) develop and administer grants, in consultation with the advisory committee, to study the feasibility of various options for continuing or renewing the operation of industrial facilities that are threatened with closure or have closed, making funds available to local governments, local associate development organizations, unions, or local nonprofit community organizations. The department of trade and economic development may require that money be matched at least dollar-for-dollar with nonstate money. No more than $25,000 of the amount provided in this subsection (a) may be made available for any one study or any one business facility. No more than $50,000 of the amount provided in this

subsection (a) may be used for the feasibility grants. The department of trade and economic development shall draw upon its existing resources and existing data from other sources to do nonduplicative analyses of trends in the state's industries and workforces. The director of the department of trade and economic development shall publish an annual report in conjunction with the annual state economic report prepared by the employment security department.

(b) $110,000 to the department of trade and economic development for the establishment of a Washington marketplace program. The department of trade and economic development shall contract with and provide technical assistance to local nonprofit organizations in two economically distressed areas of the state, as defined in RCW 82.60.020(3), to contact local businesses to identify goods and services currently purchased out of state and determine which of these goods and services could be purchased on competitive terms within the state, inform local businesses about local market opportunities, and undertake other activities necessary to implement the Washington marketplace program at the local level. A maximum of $30,000 of the amount provided in this subsection (b) may be used for contracts with no more than two nonprofit organizations in nondistressed areas of the state that are currently operating local marketplace programs to provide technical assistance for local marketplace programs in distressed areas.

(c) $60,000 to the department of trade and economic development to implement Engrossed Second Substitute Senate Bill No. 6220. If the bill is not enacted by June 30, 1988, the amount provided in this subsection (c) shall lapse.

(d) $200,000 to the department of trade and economic development for contracts with the Washington research foundation for hiring licensing and university liaison staff and for patents and other licensing-related expenses. Any contract with the Washington research foundation shall include, but is not limited to, the following conditions:

(i) Washington research foundation activities shall increase the transfer to Washington businesses of new technologies developed by state university researchers.

(ii) At least fifty percent of licenses issued through the Washington research foundation shall go to firms with headquarters in Washington state.

(iii) Washington research foundation activities shall be coordinated with the business assistance and financing services provided by the departments of community development and trade and economic development.

(iv) The Washington research foundation shall make a report to the legislature by December 31, 1988. This report shall include, but is not limited to, the following information: The number of licenses issued during the preceding year, the number of licenses issued during the preceding year to firms with headquarters in Washington state, nonconfidential information

on the financial outcome of technologies in which the foundation has invested, and the financial status of the foundation.

(e) None of the moneys provided in this subsection (8) may be used for administrative expenses of the employment security department.

(9) $500,000 of the administrative contingency fund——federal appropriation is provided solely for the purpose of addressing state impacts due to the federal immigration reform act. The funds shall be expended to carry out employee work eligibility certification, agricultural worker recruitment, supply and demand projects, and overall agricultural labor market analysis.

(10) $2,080,000 of the federal interest payment fund appropriation may be expended by the department only if the governor authorizes the expenditure in order to avoid or mitigate across-the-board allotment reductions under RCW 43.88.110. If the governor authorizes the expenditure, $2,080,000 of the general fund——state appropriation shall lapse. The amount expended by the department from the federal interest payment fund appropriation shall not exceed the amount lapsed from the general fund——state appropriation. Any moneys from the federal interest payment fund appropriation remaining unexpended on June 30, 1989, shall be deposited in the unemployment insurance trust fund.

(11) $40,000 of the administrative contingency fund——federal appropriation is provided solely to contract with the Washington institute for public policy for a study to investigate the impact of the state's reliance on the defense industry and to investigate methods to promote greater economic diversification of the state's economy. The study shall focus primarily on identifying companies and workers at risk from defense cutbacks over the next five years; reviewing existing state and federal programs available to provide reemployment and retraining assistance to affected workers; identifying potential government and private sector contracts and clients that could help firms diversify; and examining alternative production technologies and occupations that could easily be converted from defense use such as light rail mass transit, alternative energy, low-cost housing, and new product development. The department shall cooperate and provide whatever assistance is needed in the completion of the study. The institute shall submit a final report to the legislature no later than January 1, 1989. The institute shall contract with Washington State University for the study.

Sec. 221. Section 229, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SENTENCING GUIDELINES COMMISSION

General Fund Appropriation ..... $ ((~~525,000~~)) 513,000

Sec. 222. Section 230, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WASHINGTON BASIC HEALTH PLAN

General Fund Appropriation ..... $ ((~~19,109,000~~))
14,609,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to develop and operate the basic health plan under Engrossed Second Substitute House Bill No. 477. If the bill is not enacted by June 30, 1987, this appropriation shall lapse.

PART III
NATURAL RESOURCES

Sec. 301. Section 301, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE ENERGY OFFICE

General Fund Appropriation——State	$	1,874,000
General Fund Appropriation——Federal	$	16,528,000
General Fund Appropriation——Private/Local	$	20,000
Geothermal Account Appropriation——Federal	$	45,000
Building Code Council Account Appropriation	$	((~~632,000~~)) 682,000
Total Appropriation	$	((~~19,099,000~~)) 19,149,000

The appropriations in this section are subject to the following conditions and limitations: $40,000 of the general fund——state appropriation is provided solely to contract with the institute for public policy at The Evergreen State College to complete a comprehensive state hydropower study. The study shall: (1) Be developed in consultation with other state agencies (2) be completed by December 1, 1987, and (3) result in recommendations for a state hydropower plan for the balanced protection and development of the state's waterways.

Sec. 302. Section 302, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE COLUMBIA RIVER GORGE COMMISSION

General Fund Appropriation——State	$	((~~463,000~~)) 509,000
General Fund Appropriation——Private/Local	$	468,000
Total Appropriation	$	((~~931,000~~)) 977,000

Sec. 303. Section 303, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

General Fund Appropriation——State	$	((~~51,666,000~~)) 51,886,000
General Fund Appropriation——Federal	$	((~~59,846,000~~)) 40,846,000
General Fund Appropriation——Private/Local	$	398,000
Hazardous Waste Control and Elimination Account Appropriation	$	2,616,000
Flood Control Account Appropriation	$	3,999,000
Wood Stove Public Education Account Appropriation	$	366,000
Special Grass Seed Burning Research Account Appropriation	$	40,000
State Toxics Control Account	$	620,000
Reclamation Revolving Account Appropriation	$	836,000
Emergency Water Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess.	$	((~~175,000~~)) 907,000
Litter Control Account Appropriation	$	6,395,000
State and Local Improvements Revolving Account——Waste Disposal Facilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26)	$	761,000
State and Local Improvements Revolving Account——Waste Disposal Facilities 1980: Appropriated pursuant to chapter 159, Laws of 1980 (Referendum 39)	$	((~~2,095,000~~)) 2,575,000
State and Local Improvements Revolving Account——Water Supply Facilities: Appropriated pursuant to chapter 234, Laws of 1979 ex. sess. (Referendum 38)	$	((~~1,071,000~~)) 1,111,000
Stream Gaging Basic Data Fund Appropriation	$	139,000
Tire Recycling Account Appropriation	$	548,000
Water Quality Account Appropriation	$	2,398,000
Workers and Community Right to Know Fund Appropriation	$	229,000
Total Appropriation	$	((~~133,578,000~~)) 116,670,000

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

(1) The department shall implement the Nisqually river task force recommendations. $150,000 of the general fund——state appropriation is provided solely for this purpose.

((~~(3)~~)) (2) $985,000 of the general fund——state appropriation is provided solely for allocation to local air pollution control authorities.

((~~(4)~~)) (3) The appropriation from the wood stove public education account is contingent upon the enactment of House Bill No. 16. If the bill is not enacted by June 30, 1987, this appropriation shall lapse.

((~~(5)~~)) (4) $9,250,000 of the general fund——state appropriation is provided solely to carry out the department's responsibilities contained in the Puget Sound water quality plan and perform corresponding state-wide water quality activities

((~~(6)~~)) (5) $715,000 of the general fund——state appropriation is provided for the purposes of solid waste management.

((~~(7)~~)) (6) $553,000 of the general fund——state appropriation is provided solely for implementing the timber, fish, and wildlife agreement. If Senate Bill No. 5845 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

((~~(8) If House Bill No. 434 is enacted by June 30, 1987, the appropriation from the hazardous waste control and elimination account shall lapse.~~

~~(9)~~)) (7) $225,000 of the general fund——state appropriation and $50,000 of the hazardous waste control and elimination account appropriation are provided solely to: (a) Contract with the University of Washington college of ocean and fisheries sciences to develop a damage assessment methodology for determining damages as a result of oil spills, and (b) contract with the department of community development to design a model oil spill contingency plan.

((~~(10)~~)) (8) Within the general fund appropriation, the department shall prepare penalty regulations for waste disposal permit violations, including minimum penalties, based upon severity and frequency of violation.

((~~(11)~~)) (9) $302,000 of the general fund——state appropriation is provided solely for operating the Padilla Bay estuarine sanctuary interpretive center.

((~~(12) Within the general fund appropriation, the department shall phase out state hazardous waste remedial action sites currently in progress and meet emergency response actions. This subsection does not apply if House Bill No. 434 is enacted by June 30, 1987.~~

~~(13)~~)) (10) $288,000 of the general fund——state appropriation is provided solely to implement Senate Bill No. 5570. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(11) $392,000 of the emergency water project revolving account appropriation (emergency water supply) is provided solely for the purpose of planning and administering drought relief activities as required by Second

Substitute Senate Bill No. 6513. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(12) $200,000 of the emergency water project revolving account appropriation (emergency water supply) is provided solely for staff support and contract services as required by Engrossed Second Substitute Senate Bill No. 6724. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(13) $140,000 of the emergency water project revolving account appropriation (emergency water supply) is provided solely for a comprehensive state water use efficiency study as required by Engrossed Substitute House Bill No. 1594. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(14) $20,000 of the general fund—state appropriation and $100,000 of the general fund—federal appropriation are provided solely for a grant to Pend Oreille county for the purpose of controlling milfoil in the Pend Oreille river. In addition to the funds provided in this subsection, the department shall provide up to $75,000 from other appropriate state fund sources. These amounts, when combined with local matching funds, shall equal a total project cost of at least $200,000.

(15) $200,000 of the general fund—state appropriation is provided solely for the completion of phase two of the site closure and perpetual care report required by RCW 43.200.190.

Sec. 304. Section 305, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund Appropriation——State	$	((~~35,258,000~~)) 35,308,000
General Fund Appropriation——Federal	$	999,000
General Fund Appropriation——Private/Local	$	745,000
Trust Land Purchase Account Appropriation	$	8,784,000
Winter Recreation Parking Account Appropriation	$	322,000
Snowmobile Account Appropriation	$	922,000
Public Safety and Education Account Appropriation	$	10,000
ORV (Off-Road Vehicle) Appropriation	$	159,000
Motor Vehicle Fund Appropriation	$	1,000,000
Total Appropriation	$	((~~48,199,000~~)) 48,249,000

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

(1) $416,000 of the general fund——state appropriation is provided solely for carrying out the Puget Sound water quality plan.

(2) $50,000 of the general fund——state appropriation is provided solely to improve and provide recreational access for Doug's Beach.

Sec. 305. Section 308, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

General Fund Appropriation	$	602,000
Water Quality Account Appropriation	$	78,000
Total Appropriation	$	680,000

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

(1) $182,000 is provided solely for carrying out the Puget Sound water quality plan.

(2) No more than eight percent of the water quality account moneys administered by the commission may be used by the commission for administration and program activities related to the grant and loan program.

*Sec. 306. Section 310, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISHERIES

General Fund Appropriation——State	$	((~~47,465,000~~)) 47,595,000
General Fund Appropriation——Federal	$	14,057,000
General Fund Appropriation——Private/Local	$	3,651,000
Aquatic Lands Enhancement Account Appropriation	$	425,000
Total Appropriation	$	((~~65,598,000~~)) 65,728,000

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

(1) $106,000 of the general fund——state appropriation is provided solely for carrying out the Puget Sound water quality plan.

(2) ((~~$40,000 of the general fund——state appropriation is provided solely for the purposes of reintroducing an early coho salmon run to the Tilton river and Winston creek.~~

~~(3)~~)) $587,000 of the general fund——state appropriation is provided solely for implementing the timber, fish, and wildlife agreement. If Senate Bill No. 5845 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

((~~(4)~~)) (3) $150,000 of the general fund——state appropriation is provided solely for shellfish enforcement on Hood Canal.

((~~(5)~~)) (4) $150,000 of the aquatic lands enhancement account appropriation is provided solely for the preparation of an ecological impact statement on the guidelines for the management of salmon net pens in Puget Sound.

(((~~6~~))) (5) The department shall present to the natural resource committees of the senate and house of representatives no later than February 1988 a report on the department's watershed plan, with specific identification of the benefits associated with the Queets hatchery and other Indian tribal agreements.

(((~~7~~))) (6) $194,000 of the general fund——state appropriation may be expended for additional feed for the Deschutes hatchery.

(((~~8~~))) (7) $400,000 of the general fund——state appropriation is provided solely for the purpose of a comprehensive biological study conducted by the department in conjunction with the University of Washington and Grays Harbor community college to determine what is affecting the survival of salmon in the Grays Harbor area.

(((~~9~~))) (8) $150,000 of the general fund——state appropriation is provided solely to maintain and operate the Toutle river fish collection facility.

(9) $45,000 of the general fund——state appropriation is provided solely for the operation of a twenty-four hour per day hotline for user groups or individuals to obtain up-to-date information on departmental rules and regulations. The department may charge fees to recover the cost of operation of the hotline.

(10) $125,000 of the general fund——state appropriation is provided solely for the purpose of developing a salmon and steelhead rehabilitation plan for the Stillaguamish river in cooperation with the Tulalip Indian tribe and the department of wildlife.

***Sec. 306 was partially vetoed, see message at end of chapter.**

Sec. 307. Section 311, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ((~~GAME~~)) WILDLIFE

ORV (Off-Road Vehicle) Account Appropriation	$	256,000
Aquatic Lands Enhancement Account Appropriation	$	275,000
Public Safety and Education Account Appropriation	$	((~~515,000~~)) 533,000
((~~Game~~)) Wildlife Fund Appropriation——State	$	((~~36,821,000~~)) 37,137,000
((~~Game~~)) Wildlife Fund Appropriation——Federal	$	15,142,000
((~~Game~~)) Wildlife Fund Appropriation——Private/Local	$	1,856,000
((~~Game~~)) Wildlife Fund——Special Wildlife Account Appropriation	$	423,000

Total Appropriation ..... $ ((~~55,288,000~~)) 55,622,000

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

(1) The department shall, in carrying out its responsibilities under the timber, fish, and wildlife agreement, accomplish the following:

(a) Perform the necessary data collection, research, and monitoring programs which examine the differences, and make provisions for those differences, between eastern and western Washington; and

(b) Conduct a study on the department's cooperative road closure program and landowner education program in eastern Washington.

(2) Of the $8,000,000 general fund——state appropriation in chapter 508, Laws of 1987, $711,000 is provided solely for implementation of the timber, fish, and wildlife agreement and $59,000 is provided solely for carrying out the Puget Sound water quality plan.

(3) $36,000 of the public safety and education account appropriation is provided solely for transfer to the state wildlife conservation reward fund for the purpose of paying rewards. In making payments for rewards, the department shall make payments directly to the recipient.

Sec. 308. Section 312, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund Appropriation——State ..... $ ((~~36,170,000~~)) 42,574,000

General Fund Appropriation——Federal ..... $ 78,000

General Fund Appropriation——Private/Local ..... $ 20,000

ORV (Off-Road Vehicle) Account Appropriation——Federal ..... $ 3,086,000

Geothermal Account Appropriation——Federal ..... $ 16,000

Forest Development Account Appropriation ..... $ ((~~21,136,000~~)) 21,294,000

Survey and Maps Account Appropriation ..... $ ((~~773,000~~)) 838,000

Aquatic Land Dredged Material Disposal Site Account Appropriation ..... $ 106,000

Landowner Contingency Forest Fire Suppression Account Appropriation ..... $ 1,636,000

Resource Management Cost Account Appropriation ..... $ ((~~52,495,000~~)) 55,279,000

Total Appropriation ..... $ ((~~115,516,000~~)) 124,927,000

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

(1) $((~~2,706,000~~)) 8,721,000 of the general fund——state appropriation is provided solely for the emergency fire suppression subprogram.

(2) $2,649,000 of the general fund——state appropriation is provided solely for implementing the provisions of the timber fish wildlife agreement. This amount is contingent on: (a) The department reorganizing existing staff in the forest practices subprogram so that the majority of the staff positions are dedicated to regulating forest practices and are not responsible for state land management; and (b) the enactment of Senate Bill No. 5845. If the bill is not enacted by June 30, 1987, this amount shall lapse.

(3) $270,000 of the general fund——state appropriation is provided solely for the department's responsibilities in implementing the recommendations contained in the Puget Sound water quality plan.

(4) From the resource management cost account and general fund——state appropriations in this section, the department shall create an additional one hundred full time equivalent jobs, providing employment opportunities for a total of 200 people, 50 each for a period not to exceed six months, under the provisions of the employment security department's counter-cyclical employment program in section 226 of this act. These jobs shall pay at least eight dollars per hour, excluding benefits. Work performed under this subsection must provide economic benefits to state trust lands.

(5) $193,000 of the general fund——state and the aquatic land dredged material disposal site account appropriations are provided solely for the purposes of Senate Bill No. 5501. If the bill is not enacted by June 30, 1987, this appropriation shall lapse.

(6) ((~~$100,000 of the general fund——state appropriation is provided solely for interim relocation of all department staff presently located in the John A. Cherberg building. The department shall vacate the John A. Cherberg building no later than February 29, 1988.~~)) $439,000 of the general fund——state appropriation is provided solely for spraying to control spruce budworm infestations.

(7) $75,000 of the resource management cost account appropriation is provided solely for a feasibility study, under the guidance of the office of financial management and the department of information systems, directed at the development of a cost allocation system.

(8) Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund——state or such other funds as the state treasurer deems appropriate to the Clarke McNary fund such amounts as are necessary to meet unbudgeted forest fire fighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

Sec. 309. Section 313, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

General Fund Appropriation——State	$	((~~16,021,000~~)) 16,073,000
General Fund Appropriation——Federal	$	601,000
Feed and Fertilizer Account Appropriation	$	22,000
Fertilizer, Agricultural, Mineral and Lime Fund Appropriation	$	455,000
Commercial Feed Fund Appropriation	$	409,000
Seed Fund Appropriation	$	979,000
Nursery Inspection Fund Appropriation	$	1,011,000
Livestock Security Interest Account Appropriation	$	34,000
Total Appropriation	$	((~~19,532,000~~)) 19,584,000

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

(1) $48,000 of the general fund——state appropriation is provided solely for carrying out the water quality plan.

(2) $53,000 of the general fund——state appropriation is provided solely for the control of starlings as a part of the predatory animal control program.

(3) $20,000 of the general fund——state appropriation is provided solely to purchase poultry disease diagnostic laboratory equipment through a cooperative agreement with Washington State University.

(4) $120,000 of the general fund——state appropriation is provided solely for the continuation of the brucellosis vaccination program.

(5) $200,000 of the general fund——state appropriation is provided solely for enhancement of the noxious weed control program.

((~~(7)~~)) (6) $200,000 of the general fund——state appropriation is provided solely to initiate a marketing program for Washington-bred horses.

((~~(8) $80,000~~)) (7) $120,000 of the general fund——state appropriation is provided solely for the aquaculture program.

(8) $12,000 of the general fund—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6240. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

Sec. 310. Section 314, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

General Fund Appropriation	$	23,650,000
Motor Vehicle Fund Appropriation	$	532,000
Total Appropriation	$	24,182,000

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

(1) $600,000 of the general fund appropriation is provided solely for the business assistance center. The center, in concert with participating state agencies, shall develop a reporting system to document the work and results of state business assistance programs. The center shall forward annual reports to the ways and means committees of the house of representatives and senate, the trade and economic development committee of the house of representatives and the commerce and labor committee of the senate, including but not limited to jobs created, investment generated, and measures of technical assistance provided and other program activities.

(2) $195,000 of the general fund appropriation is provided solely for contracts with Washington State University small business development center programs. State funds for small business development center programs in Lewis county shall not be reduced from the level provided in the 1985–1987 biennium.

(3) $625,000 of the general fund appropriation is provided solely for contracts with the small business export finance assistance center of Washington. At least $100,000 of the amount provided in this subsection shall be used by the department and the small business export finance assistance center for the development of a coordinated outreach program for trade information services and export finance assistance. In developing this program, the department and the small business export finance assistance center shall work with the business assistance center, ports, and other users and suppliers of trade services.

(4) The department shall analyze market trends and investment opportunities in at least eight key sectors of the Washington economy. The department shall publish five-year projections of selected mature and growth industries with current or potentially large impacts on the state economy, including barriers to competitiveness, potential market niches, investment trends, and their relationship to state economic development efforts. The department shall work in concert with the Washington state economic development board, the department of community development, CENTRAFOR, IMPACT, the employment security department, and the private sector to develop these industry studies and to analyze strategies for the retention and development of high-wage jobs.

(5) The following amounts of the general fund appropriation are provided solely for matching funds to equal amounts of private-sector, federal, and in-kind contributions:

(a) Washington high technology center, $7,000,000; and

(b) Center for international trade in forest products, $297,000.

(6) $225,000 of the general fund appropriation is provided solely for preparation, if warranted, of a proposal to the federal department of energy that the proposed superconducting supercollider be located in Washington state.

(7) The director shall form an interagency task force charged with gathering information on entrepreneurial development, formulating interagency agreements to promote entrepreneurial activity, and designing programs and policy options. The task force shall be composed of representatives from the department of community development, the employment security department, the department of labor and industries, the department of social and health services, the state board for vocational education, the state board for community college education, the higher education coordinating board, and the superintendent of public instruction.

(8) The department shall establish the Washington investment opportunities office as a clearinghouse for entrepreneurs seeking capital and investments. The office shall keep a list of entrepreneurs in the state looking for capital resources, provide prospective investors with information about these entrepreneurs, and coordinate the delivery of assistance to entrepreneurs developing business plans.

Sec. 311. Section 318, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WINTER RECREATION COMMISSION

General Fund Appropriation ..... $ 27,000

The appropriation in this section is subject to the following conditions and limitations: $5,000 of the appropriation is provided solely as partial funding of a study of the effect of the ski industry on the economy of the state.

Sec. 312. Section 12, chapter 8, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

$((~~9,320,000~~)) 11,956,000 or so much thereof as may be necessary, is appropriated from the state convention and trade center operations account to the state convention and trade center corporation, for the fiscal biennium ending June 30, 1989, for the purposes of operation and promotion of the center. The appropriation in this section is subject to the following conditions and limitations: $1,540,000 is provided solely for marketing the facilities and services of the convention center, for promoting the locale as a convention and visitor destination, and for related activities. Unless a bill increasing the special excise tax under RCW 67.40.090 to six percent in the city of Seattle and two and four-tenths percent in King county outside the city of Seattle is enacted by June 30, 1988, the amount provided in the previous sentence shall lapse.

Sec. 313. Section 316, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WASHINGTON CENTENNIAL COMMISSION

General Fund Appropriation	$	7,377,000
State Centennial Commission Account Appropriation	$	2,540,000
Total Appropriation	$	9,917,000

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

(1) State agencies, at the request of the centennial commission, may develop programs or activities related to the Washington state centennial. Agencies that develop programs or activities in conjunction with the centennial commission shall not charge the commission for overhead or administrative costs.

(2) The commission may contract with Pacific Celebration '89 for promotion of Washington state's future trade and economic ties with nations in the Pacific rim. Any contract with Pacific Celebration '89 shall include, but is not limited to, the following conditions:

(a) Pacific Celebration '89 activities shall create increased opportunities for marketing Washington state products and services, include a series of leadership conferences on emerging issues of the Pacific economy, promote Washington state as the focus of trade activity within the Pacific basin, recognize the contributions to the development of Washington state by people of Pacific heritage, and increase knowledge and understanding of Pacific cultures by Washington citizens. Activities shall be staged in communities throughout the state during the centennial year.

(b) Each $1.00 in state funds provided to Pacific Celebration shall be matched over the course of the biennium by at least $1.60 in private contributions and event sponsorships. If, at any point during the biennium, the centennial commission determines that private contributions and event sponsorships will, by the end of the biennium, amount to less than $1.60 for each $1.00 of state money provided, it shall reduce disbursements proportionally.

(c) Any state money used for contracts with Pacific Celebration shall be repaid, to the greatest extent possible, from net revenue of Pacific Celebration activities. Net revenues from these activities shall be maximized and returned to the general fund according to a financial plan approved by the commission.

(3) The general fund appropriation is intended to be the final state contribution to the funding of centennial commission projects.

(4) If the commission terminates the contracts authorized under subsection (2) of this section prior to the effective date of this 1988 section, the commission shall use all money that had been committed to but will not be expended for these contracts on the following activities: (a) Efforts to increase opportunities for marketing Washington state products and services; (b) a series of leadership conferences on emerging issues of the Pacific

economy; (c) promotion of Washington state as the focus of trade activity within the Pacific basin; (d) recognition of the contributions to the development of Washington state by people of Pacific heritage; and (e) efforts to increase knowledge and understanding of Pacific cultures by Washington citizens.

(5) $50,000 of the general fund appropriation is provided solely for staff and administrative services by the department of community development for a 20:20 commission. The 20:20 commission shall develop a plan to prepare the state to respond positively to the economic, social, and environmental changes which will face its citizens as they enter the next century.

PART IV
TRANSPORTATION

*Sec. 401. Section 401, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PATROL

Death Investigations Account Appropriation	$	24,000
General Fund Appropriation——State.....	$	((~~16,938,000~~)) 19,306,000
General Fund Appropriation——Federal.....	$	2,974,000
General Fund Appropriation——Private/Local	$	((~~1,769,000~~)) 146,000
Total Appropriation	$	((~~21,705,000~~)) 22,450,000

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

(1) ((~~At least $471,000 of the general fund——state appropriation shall be spent on crime labs. $1,424,000 of the general fund——federal appropriation is provided solely for crime labs if federal narcotics enforcement moneys are granted to the state. If these moneys are not granted to the state, an additional $471,000 of the general fund——state appropriation shall be spent on crime labs. If the additional $471,000 is spent on crime labs, the expenditure for the narcotics section shall not exceed the expenditures for that purpose during the 1985-1987 biennium.~~)) $721,000 of the general fund——state appropriation shall be spent on crime labs. $1,000,000 of the general fund——federal appropriation is provided solely for crime labs to the extent federal narcotics moneys are provided to the state.

(2) $431,000 of the general fund——state appropriation is provided solely to implement Second Substitute Senate Bill No. 5063. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse. Fees resulting from implementation of the bill shall be placed in the state general fund.

(3) Notwithstanding subsection (1) of this section, an additional $500,000 of the general fund——state appropriation shall be spent on crime labs. $275,000 of this amount shall be used for additional personnel and related costs. The remainder shall be used for salary adjustments as approved by the department of personnel.

(4) $300,000 of the general fund——state appropriation is provided solely to support existing narcotics task forces state-wide that are experiencing decreasing federal revenues.

(5) $300,000 of the general fund——state appropriation is provided solely ***to establish a separate unit*** to provide expertise in the investigation of major crimes and to provide assistance to law enforcement entities throughout the state at their request. The state patrol shall develop a computer database and record system to store crime scene information to assist in major crimes investigations and to make such data readily available to all law enforcement agencies.

***Sec. 401 was partially vetoed, see message at end of chapter.**

Sec. 402. Section 402, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

General Fund Appropriation	$	((~~15,508,000~~)) 15,704,000
Architects' License Account Appropriation	$	765,000
Health Professions Account Appropriation	$	((~~9,601,000~~)) 9,709,000
Medical Disciplinary Account Appropriation	$	1,195,000
Professional Engineers' Account Appropriation	$	1,207,000
Real Estate Commission Account Appropriation	$	4,936,000
Total Appropriation	$	((~~33,212,000~~)) 33,516,000

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

(1) A maximum of $426,000 from the health professions account appropriation may be used to contract with the board of pharmacy for drug-related investigations regarding licensed health care professionals.

(2) $750,000 of the general fund appropriation is provided solely for expansion of the master license system. ((~~This funding is contingent on interagency transfers totaling $548,000 in value. The office of financial management shall determine: (a) Which agencies shall make transfers to the department of licensing; (b) how much each agency shall transfer; and (c) whether the transfers shall be money or in-kind.~~

~~(4)~~)) (3) $42,000 of the general fund appropriation is provided solely for implementation of Engrossed House Bill No. 713. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(4) $64,000 of the general fund appropriation is provided solely for enhanced regulation and scrutiny of debenture companies under the provisions of Substitute House Bill No. 1525. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(5) $28,000 of the general fund appropriation is provided solely for recording federal liens under Engrossed Senate Bill No. 6563. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse. The amount spent under this subsection shall not exceed the amount of additional fee revenue generated under the bill.

(6) $83,000 of the health professions account appropriation is provided solely for certifying and registering nursing assistants under Engrossed Substitute House Bill No. 1530. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(7) $25,000 of the health professions account appropriation is provided solely for adopting rules governing the use of sedation and anesthesia for dental practice under Engrossed House Bill No. 668. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

(8) $104,000 of the general fund appropriation is provided solely for regulation of camping clubs under Substitute House Bill No. 791. If the bill is not enacted by June 30, 1988, the amount provided in this subsection shall lapse.

PART V
EDUCATION

Sec. 501. Section 501, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR STATE ADMINISTRATION

General Fund Appropriation——State	$	((~~17,701,000~~)) 17,601,000
General Fund Appropriation——Federal	$	10,683,000
Public Safety and Education Account Appropriation	$	456,000
Total Appropriation	$	((~~28,840,000~~)) 28,740,000

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

(1) The public safety and education account appropriation is provided solely for administration of the traffic safety education program, including

in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(2) $364,000 of the general fund——state appropriation is provided solely for the continuation of the international education and teacher exchange programs. $50,000 of this amount shall be used to contract for services to expand the program to include Latin America.

(3) $18,000 of the general fund——state appropriation is provided solely for the continuation of the environmental education program.

(4) $50,000 of the general fund——state appropriation is provided solely for pilot programs for Hispanic dropout prevention and retrieval.

(5) $43,000 of the general fund——state appropriation is provided solely for the purchase of multi-cultural/multi-ethnic instructional materials to be distributed to all elementary and secondary school buildings in the state.

(6) The superintendent of public instruction shall, jointly with the state board for community college education, develop an integrated state plan for all state and federally funded vocational education services. The superintendent of public instruction and the state board for community college education shall also jointly develop a consistent and reliable data base on public vocational education, including enrollments, costs, program activities, and job placement. Such data shall be made available to the office of the governor and the legislature.

(7) $35,000 of the general fund——state appropriation is provided solely for the development of a horticulture greenhouse project within the Sequim school district.

Sec. 502. Section 503, chapter 7, Laws of 1987 1st ex. sess. as amended by section 1, chapter 1, Laws of 1987 3rd ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR GENERAL APPORTIONMENT (BASIC EDUCATION)

General Fund Appropriation ..... $((~~3,814,863,000~~)) 3,834,946,000

Revenue Accrual Account Appropriation ..... $ 55,100,000

Total Appropriation ..... $((~~3,869,963,000~~)) 3,890,046,000

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

(1) $((~~367,786,000~~)) 367,323,000 is provided solely for the remaining months of the 1986-87 school year.

(2) Allocations for certificated staff salaries for the 1987-88 and 1988-89 school years shall be determined by multiplying each district's average

basic education certificated instructional and administrative salaries as determined under section 504, chapter 7, Laws of 1987 1st ex. sess., as amended, by the districts' formula-generated staff units as follows:

(a) On the basis of average annual full time equivalent enrollments, excluding handicapped full time equivalent enrollment as recognized for funding purposes under section 507, chapter 7, Laws of 1987 1st ex. sess., and excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (i) of this subsection:

(i) Forty-six certificated instructional staff units for each one thousand full time equivalent kindergarten through twelfth grade students.

(ii) Four certificated administrative staff units for each one thousand full time equivalent kindergarten through twelfth grade students.

(b)(i) For the 1987-88 school year, an additional two certificated instructional staff units for each one thousand average annual full time equivalent students in kindergarten through third grade.

(ii) For the 1988-89 school year, an additional three certificated instructional staff units for each one thousand average annual full time equivalent students in kindergarten through third grade.

(c)(i) For school districts with a minimum enrollment of 250 full time equivalent students, whose full time equivalent student enrollment count in a given month exceeds the first of the month full time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month.

(ii) For school districts that are located in a special economic distress impact area as defined in this subsection, and that experienced a decline in average annual full time equivalent enrollment between the 1987-88 and 1988-89 school years of at least two hundred full time equivalent students or four percent, whichever is less, additional staff unit allocations for the 1988-89 school year equivalent to the number of staff units generated under (a) of this subsection by half of the enrollment difference between the two school years. "Special economic distress impact area" shall mean a county that had an average unemployment rate for fiscal year 1988 which exceeded the average state unemployment rate for the same period by fifteen percent, and which is located in whole or in part within a fifty mile radius of a nuclear reactor scheduled to be placed in inoperative standby status.

(d) 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each seventeen and one-half full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction. However, for skill center programs, the ratio shall be 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each annual average 16.67 full time equivalent students enrolled in an approved vocational education program.

(e) For districts enrolling not more than twenty–five average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll not more than twenty–five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education:

(i) For those enrolling no students in grades seven or eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one–twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in either grades seven or eight, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one–tenth of a certificated instructional staff unit for each additional student enrolled.

(f) For districts enrolling more than twenty–five but not more than one hundred average annual full time equivalent students in kindergarten through grade eight, and for small school plants within any school district which enroll more than twenty–five average annual full time equivalent kindergarten through eighth grade students and have been judged to be remote and necessary by the state board of education, in the following cases:

(i) For districts and small school plants with enrollments of up to sixty annual average full time equivalent students in kindergarten through grade six, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units;

(ii) For districts and small school plants with enrollments of up to twenty annual average full time equivalent students in grades seven and eight, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full time equivalent students and less than one hundred eighty students, operating a grades K–8 program or a grades 1–8 program, an additional one–half of a certificated instructional staff unit.

(h) For each nonhigh school district having an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, operating a grades K–6 program or a grades 1–6 program, an additional one–half of a certificated instructional staff unit.

(i) For districts that operate no more than two high schools with enrollments of not more than three hundred average annual full time equivalent students, for enrollments in each such high school, excluding handicapped and vocational full time equivalent enrollments for the 1987–88 school year only:

(i) Nine certificated instructional staff units and one–half of a certificated administrative staff unit for the first sixty annual average full time equivalent students; ((and))

(ii) Additional certificated staff units based upon a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per forty-three and one-half average annual full time equivalent students; and

(iii) For the 1988-89 school year, excluding certificated staff units at the rate of 46 certificated instructional staff units and 4 certificated administrative staff units per 1,000 vocational and handicapped full time equivalent students.

(3) Allocations for classified salaries for the 1987-88 and 1988-89 school years shall be calculated by multiplying each district's average basic education classified salary allocation as determined under section 504(2), chapter 7, Laws of 1987 1st ex. sess., as amended, by the district's formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsections (2) (e) through (i) of this section, one classified staff unit per each three certificated staff units allocated under such subsections.

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 19.41 percent in the 1987-88 school year and 19.53 percent in the ((~~1987-88~~)) 1988-89 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 17.00 percent in the 1987-88 school year and 17.12 percent in the 1988-89 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations for the 1987-88 and 1988-89 school years shall be calculated at a rate of $167 per month for the number of certificated staff units determined in subsection (2) of this section and for the number of classified staff units determined in subsection (3) of this section multiplied by 1.152.

(6)(a) For nonemployee related costs with each certificated staff unit allocated under subsections (2) (a), (b), (c), and (e) through (i) of this section, there shall be provided a maximum of $5,973 per certificated staff unit in the 1987-88 school year and a maximum of $6,188 per certificated staff unit in the 1988-89 school year.

(b) For nonemployee related costs with each certificated staff unit allocated under subsection (2)(d) of this section, there shall be provided a maximum of $11,382 per certificated staff unit in the 1987-88 school year and a maximum of $11,792 per certificated staff unit in the 1988-89 school year.

(7) Allocations for costs of substitutes for classroom teachers shall be distributed at a maximum rate of $275 per full time equivalent basic education classroom teacher during the 1987–88 and 1988–89 school years.

(8) The superintendent may distribute a maximum of $3,209,000 outside the basic education formula during fiscal years 1988 and 1989 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of $342,000 may be expended in fiscal year 1988 and a maximum of $342,000 in fiscal year 1989.

(b) For summer vocational programs at skills centers, a maximum of $1,099,000 may be expended in fiscal year 1988 and a maximum of $1,135,000 may be expended in fiscal year 1989.

(c) A maximum of $((~~272,000~~)) 472,000 may be expended for school district emergencies.

(9) Formula enhancements are provided under this section which are not attributable to enrollment or workload changes, compensation increases, or inflationary adjustments. For the purposes of ((~~section 101, chapter 2, Laws of 1987 1st ex. sess.~~)) RCW 84.52.0531, the following allocations ((~~for the 1987–88 school year~~)) shall be recognized as levy reduction funds:

(a) For the 1987–88 school year, for certificated instructional staff units generated under subsection (2)(b)(i) of this section, all allocations for nonemployee–related costs and one–half of all allocations for certificated salaries and benefits.

(b) For the 1988–89 school year, for certificated instructional staff units generated under subsection (2)(b)(ii) of this section, one–third of all allocations including nonemployee–related costs and certificated staff salaries and benefits.

(10) For the purposes of section 101, chapter 2, Laws of 1987 1st ex. sess., the increase per full time equivalent student in the state basic education appropriation provided under this section and section 514 of this 1988 act is 2.75 percent between the 1986–87 and 1987–88 school years, and ((~~3.52~~)) 4.93 percent between the 1987–88 and 1988–89 school years.

(11) The revenue accrual account appropriation is provided solely for allocations for employer contributions to the teachers' retirement system included under subsection (4) of this section.

(12) A maximum of $372,000 may be distributed to enhance funding provided in subsections (1) through (8) of this section for remote and necessary school plants on islands without scheduled public transportation which are the sole school plants serving students in elementary grades on these islands. ((~~Any school district receiving an allocation under this subsection must certify that funding distributed for its remote and necessary school plants under this subsection and subsection (2)(c) of this section is used solely for programs for students enrolled in these school plants.~~)) To be

eligible in any school year for an allocation under this subsection, a school district must demonstrate that, either on an aggregate or per pupil basis, the percentage growth from the prior year in the district's expenditures for programs for students enrolled in the remote school plant is not less than the percentage growth from the prior school year in the district's operating expenditures district-wide. The superintendent of public instruction shall ensure compliance with this subsection, including appropriate distribution of school district overhead costs. The superintendent shall study and, in a report submitted to the legislature prior to December 1, 1988, make recommendations on adequate but not excessive funding formulas for remote and necessary school plants serving less than twenty-five students.

(13) The appropriations in this section include $119,343,000 allocated for compensation increases for basic education staff, as provided pursuant to section 504, chapter 7, Laws of 1987 1st ex. sess., as amended.

Sec. 503. Section 504, chapter 7, Laws of 1987 1st ex. sess. as amended by section 2, chapter 1, Laws of 1987 3rd ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——BASIC EDUCATION EMPLOYEE COMPENSATION

For the purposes of section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, and this section, the following conditions and limitations apply:

(1) (a) Districts shall certify to the superintendent of public instruction such information as may be necessary regarding the years of service and educational experience of basic education certificated instructional employees for the purposes of calculating certificated instructional staff salary allocations pursuant to this section. Any change in information previously certified, on the basis of additional years of experience or educational credits, shall be reported and certified to the superintendent of public instruction at the time such change takes place.

(b) For the purposes of ((~~subsection (2) of~~)) this section, "basic education certificated instructional staff" is defined as provided in ((~~section 203, chapter 2, Laws of 1987 1st ex. sess~~)) RCW 28A.41.110.

(c) "LEAP Document 1" means the computerized tabulation establishing staff mix factors for basic education certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on August 18, 1987, at 13:26 hours.

(d) "LEAP Document 10" means the computerized tabulation of 1986-87 average salary allocations for basic education certificated administrative staff and basic education classified staff, as developed by the legislative evaluation and accountability program committee on May 11, 1987, at 11:06 hours.

(e) "LEAP Document 11" means the computerized tabulation of 1986–87 derived base salaries for basic education certificated instructional staff, as developed by the legislative evaluation and accountability program committee on August 19, 1987, at 10:29 hours.

(f) "Derived base salary" means a school district's average salary for basic education certificated instructional staff, divided by the district's average staff mix factor for such staff computed using LEAP Document 1.

(2)(a)(i) For the 1987–88 school year, average salary allocations for basic education certificated administrative staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's 1986–87 certificated administrative average salary shown on LEAP Document 10, increased by 2.1 percent of the 1986–87 LEAP Document 10 state-wide average salary for certificated administrative staff.

(ii) For the 1988–89 school year, average salary allocations for basic education certificated administrative staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's certificated administrative average salary allocation for the 1987–88 school year provided under this section, further increased by 2.14 percent of the 1986–87 LEAP Document 10 state-wide average salary.

(b)(i) For the 1987–88 school year, average salary allocations for basic education classified staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's 1986–87 classified average salary shown on LEAP Document 10, increased by 2.7 percent of the 1986–87 LEAP Document 10 state-wide average salary for classified staff.

(ii) For the 1988–89 school year, average salary allocations for basic education classified staff under section 503, chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the district's classified average salary allocation for the 1987–88 school year provided under this section, further increased by 2.77 percent of the 1986–87 LEAP Document 10 state-wide average classified salary.

(c) Allocations for certificated instructional salaries in the 1987–88 school year under section 503(2), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1987–88 state-wide salary allocation schedule established in subsection (3)(a) of this section; or

(ii) The district's actual average annual basic education certificated instructional staff salary for the 1986–87 school year, as reported to the superintendent of public instruction prior to June 1, 1987, improved by 2.1 percent; or

(iii) The district's 1986–87 derived base salary for basic education certificated instructional staff as shown on LEAP Document 11, multiplied by the district's average staff mix factor determined using LEAP Document 1

for 1987–88 basic education certificated instructional staff, and further increased by 2.1 percent.

(d) Allocations for certificated instructional salaries in the 1988–89 school year under section 503(2), chapter 7, Laws of 1987 1st ex. sess., as amended, shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1988–89 state–wide salary allocation schedule established in subsection (3)(b) of this section; or

(ii) For districts which received salary allocations for the 1987–88 school year under subsection (2)(c)(ii) or (iii) of this section, the district's actual 1987–88 derived base salary for basic education certificated instructional staff computed by the superintendent of public instruction using LEAP Document 1, multiplied by the district's average staff mix factor determined using LEAP Document 1 for 1988–89 basic education certificated instructional staff, and further increased by 2.1 percent. In no case shall the actual 1987–88 derived base salary recognized in this subsection exceed the average salary used for state allocations in the 1987–88 school year for basic education certificated instructional staff under section 502 of this 1988 act, including the increases provided under this section and section 504(4) of this 1988 act, divided by the district's average staff mix factor for 1987–88 basic education certificated instructional staff.

(3) Pursuant to ((~~section 204, chapter 2, Laws of 1987 1st ex. sess.~~)) RCW 28A.41.112, the following state–wide salary allocation schedules for certificated instructional staff, for allocation purposes only, are established:

(a) 1987–88 STATE–WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,050	17,510	17,988	18,465
1	17,681	18,158	18,653	19,164
2	18,329	18,823	19,335	19,897
3	19,011	19,522	20,051	20,648
4	19,710	20,255	20,801	21,432
5	20,443	21,006	21,568	22,250
6	21,210	21,773	22,370	23,103
7	21,995	22,574	23,188	23,972
8	22,796	23,410	24,041	24,893
9		24,279	24,944	25,831
10			25,865	26,820
11				27,843

(a) 1987–88 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
12				
13				
14 or more				

1987–88 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,000	20,989	20,000	21,210	22,250
1	20,750	21,756	20,750	21,995	23,069
2	21,517	22,557	21,517	22,813	23,921
3	22,301	23,393	22,301	23,648	24,808
4	23,137	24,262	23,137	24,518	25,728
5	23,989	25,166	23,989	25,439	26,666
6	24,876	26,087	24,876	26,376	27,655
7	25,797	27,058	25,797	27,348	28,678
8	26,751	28,064	26,751	28,354	29,752
9	27,740	29,104	27,740	29,411	30,843
10	28,763	30,179	28,763	30,502	31,986
11	29,838	31,287	29,838	31,628	33,162
12	30,946	32,446	30,946	32,804	34,390
13	32,088	33,640	32,088	34,015	35,669
14 or more		34,884	33,265	35,276	36,981

(b) 1988–89 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,600	18,075	18,568	19,061
1	18,251	18,744	19,254	19,782
2	18,920	19,430	19,958	20,539
3	19,624	20,152	20,698	21,314
4	20,346	20,909	21,472	22,123

(b) 1988–89 STATE–WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
5	21,102	21,683	22,264	22,968
6	21,894	22,475	23,091	23,848
7	22,704	23,302	23,936	24,746
8	23,531	24,165	24,816	25,696
9		25,062	25,749	26,664
10			26,699	27,685
11				28,741
12				
13				
14 or more				

1988–89 STATE–WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,645	21,666	20,645	21,894	22,968
1	21,419	22,458	21,419	22,704	23,813
2	22,211	23,285	22,211	23,549	24,693
3	23,021	24,147	23,021	24,411	25,608
4	23,883	25,045	23,883	25,309	26,558
5	24,763	25,978	24,763	26,259	27,526
6	25,678	26,928	25,678	27,227	28,547
7	26,629	27,931	26,629	28,230	29,603
8	27,614	28,970	27,614	29,269	30,712
9	28,635	30,043	28,635	30,360	31,838
10	29,691	31,152	29,691	31,486	33,018
11	30,800	32,296	30,800	32,648	34,232
12	31,944	33,493	31,944	33,862	35,499
13	33,123	34,725	33,123	35,112	36,819
14 or more		36,010	34,338	36,414	38,174

(c) As used in this subsection:

(i) "BA" means a baccalaureate degree;

(ii) "MA" means a masters degree;

(iii) "PHD" means a doctorate degree;

(iv) "+(N)" means the number of college quarter hour credits and in-service credits earned since the highest degree. Inservice hours shall be converted to equivalent college quarter hour credits in accordance with RCW 28A.71.110.

(4) (a) Prior to August 31st of each school year, each school district shall report to the superintendent of public instruction the following information for each certificated instructional employee employed by the district as of October 1st of that school year:

(i) The full time equivalency of the employee by duty code and program assignment;

(ii) The number of days in the employee's base contract;

(iii) The finalized salary amount provided for the employee's base contract;

(iv) The amount contributed by the school district for the employee's fringe benefits as defined in RCW 28A.58.0951(3)(b); and

(v) The finalized amount paid to the employee for any supplemental contracts under RCW 28A.58.0951(4).

Districts shall also confirm this data and submit any necessary revisions prior to December 1st of the subsequent school year.

(b) Prior to August 31st of each school year, each school district shall submit to the superintendent of public instruction copies of the district's finalized salary schedules used for compensation of certificated instructional employees.

(c) The superintendent of public instruction shall make available to school districts, the legislature, and the governor the information submitted by the school districts under this subsection (4), including calculation of average amounts provided by each school district for base salary contracts, supplemental contracts, and fringe benefits of basic education certificated instructional staff and of other certificated instructional staff.

Sec. 504. Section 505, chapter 7, Laws of 1987 1st ex. sess. as amended by section 3, chapter 1, Laws of 1987 3rd ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR MINIMUM SALARIES AND CATEGORICAL PROGRAM SALARY INCREASES

General Fund Appropriation ..... $ ((~~22,549,000~~)) 23,264,000

The appropriation in this section is subject to the following conditions and limitations:

(1) "Incremental fringe benefits" means 18.77 percent in the 1987–88 school year and 18.89 percent in the 1988–89 school year for certificated staff, and 13.47 percent in the 1987–88 school year and 13.59 percent in the 1988–89 school year for classified staff, which percentages shall be the

fringe benefit rates applied to the respective salary adjustments provided in subsections (3) and (4) of this section.

(2) A maximum of $((~~8,431,000~~)) 8,185,000 is provided to implement salary increases for each school year for state-supported school employees in the following categorical programs: Transitional bilingual instruction, learning assistance, education of highly capable students, vocational technical institutes, and pupil transportation. Moneys provided by this subsection include costs of incremental fringe benefits and shall be distributed by increasing allocation rates for each school year by the amounts specified:

(a) Transitional bilingual instruction: The rates specified in section 509, chapter 7, Laws of 1987 1st ex. sess. shall be increased by $10.51 per pupil for the 1987-88 school year and by $((~~21.60~~)) 21.68 per pupil for the 1988-89 school year.

(b) Learning assistance: The rates specified in section 510, chapter 7, Laws of 1987 1st ex. sess. shall be increased by $9.15 per pupil for the 1987-88 school year and by $((~~18.60~~)) 16.72 per pupil for the 1988-89 school year.

(c) Education of highly capable students: The rates specified in section 511, chapter 7, Laws of 1987 1st ex. sess. shall be increased by $6.23 per pupil for the 1987-88 school year and by $12.84 per pupil for the 1988-89 school year.

(d) Vocational technical institutes: The rates for vocational programs specified in section 513, chapter 7, Laws of 1987 1st ex. sess. shall be increased by $57.15 per full time equivalent student for the 1987-88 school year, and by $((~~117.45~~)) 114.91 per full time equivalent student for the 1988-89 school year.

(e) Pupil transportation: The rates provided under section 516, chapter 7, Laws of 1987 1st ex. sess. shall be increased by $0.47 per weighted pupil-mile for the 1987-88 school year, and by $((~~0.95~~)) 0.86 per weighted pupil-mile for the 1988-89 school year.

(3) A maximum of $((~~13,118,000~~)) 14,979,000 is provided for salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program, section 507, and for state-supported staff in institutional education programs, section 508, and in educational service districts, section 502. The superintendent of public instruction shall distribute salary increases for these programs not to exceed the percentage salary increases provided for basic education staff under section 504, chapter 7, Laws of 1987 1st ex. sess.

(4) A maximum of $((~~1,000,000~~)) 100,000 is provided solely to implement minimum salaries, distributed as follows:

(a) For any certificated instructional employee in the 1987-88 school year, the superintendent of public instruction may allocate additional salary moneys equal to:

(i) The minimum salary required for the employee under RCW 28A.58.0951(2); minus

(ii) The salary that the school district would have paid to such an employee in the 1986–87 school year at the employee's 1987–88 level of experience and education, increased by the average percentage increase provided in the district's derived base salary for basic education certificated instructional staff under section 2 of this 1987 act between the 1986–87 and 1987–88 school years. For the purposes of this section, no salary which an employee would have been paid in the 1986–87 school year shall be considered to be less than $16,500 on a full time equivalent basis if the district had received funds under section 502(3)(f) of chapter 7, Laws of 1987, to establish a minimum certificated salary of $16,500.

(b) For any certificated instructional employee in the 1988–89 school year, the superintendent of public instruction may allocate additional salary moneys equal to:

(i) The minimum salary required for the employee under RCW 28A.58.0951(2); minus

(ii) The salary that the school district would have paid to such an employee during the 1987–88 school year at the employee's 1988–89 level of experience and education, increased by the average percentage increase provided in the district's derived base salary for basic education certificated instructional staff under section 2 of this 1987 act between the 1987–88 and 1988–89 school years.

(c) The superintendent of public instruction shall allocate incremental fringe benefits as defined in subsection (1) of this section for additional salary moneys allocated under (a) and (b) of this subsection.

Sec. 505. Section 506, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——LOCAL EDUCATION PROGRAM ENHANCEMENT FUNDS

General Fund Appropriation ..... $ ((~~49,500,000~~)) 45,042,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The purpose of this section is to provide a grant, in addition to the district's basic education allocation, to each school district based on full time equivalent student enrollment to meet the educational needs of each district.

(2) School districts shall be eligible to receive a grant in addition to their basic education allocation. This additional grant shall be distributed to local school districts from the superintendent of public instruction on the basis of full time equivalent students. For districts enrolling 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 have been judged to be remote and necessary by the state board of education, the grant shall be distributed as follows:

(a) For grades K–6, for districts enrolling not more than sixty average full time equivalent students, the grant shall be based on sixty full time equivalent students;

(b) For grades 7 and 8, for districts enrolling not more than twenty average full time equivalent students, the grant shall be based on twenty full time equivalent students; and

(c) For districts that have high schools with sixty or fewer full time equivalent students, the grant shall be based on sixty full time equivalent students.

(3) For each school year beginning in the 1987–89 biennium, each school district shall receive, in addition to the basic education allocation, a grant ((~~of no less than $67.50~~)) per full time equivalent student of a maximum of $33.75. Grants shall be distributed on a school year basis. A maximum of $((~~24,750,000~~)) 24,900,000 may be allocated for the 1987–88 school year.

(4) For the purposes of this section, each school board shall:

(a) Assess the needs of the schools within the district;

(b) Assign priority to addressing the identified needs; and

(((~~d~~))) (c) Develop an evaluation methodology to assess specifically how the expenditure of the grants demonstrate a direct educational benefit to the pupils within the district.

(5) New or existing programs enhanced by the funds provided to districts by a grant under this chapter shall not become a part of the state's basic education obligation as set forth by the Constitution.

(((~~8~~))) (6) Local district grants may be used to fund any or all of the following activities:

(a) Innovative programs to increase the adult–pupil ratio without increasing the number of certificated staff, including but not limited to:

(i) Providing stipends to competent retired teachers to return them to the classroom as "team teachers" or classroom assistants;

(ii) Providing stipends to teachers' aides;

(iii) Providing incentives to administrators who spend a portion of their work day in the classroom team teaching or providing classroom assistance;

(iv) Providing recognition to citizen volunteers who assist in the classroom;

(v) Providing training programs for classroom assistants, including volunteers; and

(vi) Purchasing equipment that directly relates to classroom instruction or assists the teacher in minimizing time away from teaching.

(b) Dropout prevention and retrieval programs, including, but not limited to:

(i) Curriculum development;

(ii) Public and private sector partnerships in expanding offerings in programs such as "Choices" and the "Registry" program;

(iii) Alternative learning program development;

(iv) Enhancement of vocational, career, college, and pupil advisory programs;

(v) Elementary school advisory programs;

(vi) Mentor pupil programs such as "Natural Helpers"; and

(vii) Curriculum materials and equipment purchases.

(c) Drug and alcohol abuse programs, including, but not limited to:

(i) In-service staff training programs for the identification of students at-risk; and

(ii) Community services networking to direct students who are substance abusers to appropriate treatment facilities.

(d) Early childhood programs, including but not limited to:

(i) A parents as first teachers program that provides for resource materials on home learning activities, private and group educational guidance, individual and group learning experiences for the parent and child, and other appropriate activities to enable parents to improve learning in the home, understand the relationship between developmental stages and behavior, and monitor their children's growth and development relating to understanding and use of language; perception through sight and hearing; motor development and hand-eye coordination; and health, physical development, and emotional, social, and mental development;

(ii) Nutritional programs;

(iii) Parental participation programs; and

(iv) Child day-care programs.

(e) In-service training programs for staff development including, but not limited to:

(i) Funding speakers or group leaders to deliver in-service training to staff;

(ii) Program materials and equipment;

(iii) Tuition, registration fees, and associated fees for attendance at seminars, workshops, or courses that directly relate to enhancing adult training for classroom duties; and

(iv) Travel reimbursement directly related to in-service training.

(f) Programs that develop and promote logical reasoning and improved analytical skills, including programs for highly capable students.

((~~(10)~~)) (7) Small or rural districts may enter into cooperative agreements to provide educational enhancements through the sharing of grant funds.

((~~(11)~~)) (8) The superintendent of public instruction shall make a comprehensive report to the legislature on the use of the local district grants and the educational benefits derived therefrom by January 31, 1989.

Sec. 506. Section 507, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR HANDICAPPED EDUCATION PROGRAMS

General Fund Appropriation——State ..... $ ((~~407,476,000~~)) 423,035,000

General Fund Appropriation——Federal ..... $ 45,318,000

Total Appropriation ..... $ ((~~452,794,000~~)) 468,353,000

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

(1) $((~~41,565,000~~)) 41,570,000 of the general fund——state appropriation is provided solely for the remaining months of the 1986-87 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1987-88 and 1988-89 school years in accordance with districts' actual handicapped enrollments and the allocation model established in LEAP Document 9 as developed by the legislative evaluation and accountability program committee on April 27, 1987, at 14:43 hours.

(3) A maximum of $411,000 may be expended from the general fund——state appropriation to fund 4.66 full time equivalent teachers and one aide at Children's Orthopedic Hospital and Medical Center. This amount is in lieu of money provided through the home and hospital allocation and the handicapped program.

(4) From state or federal funds appropriated under this section, the superintendent of public instruction shall allocate a total of $130,000 for the early childhood home instruction program for hearing impaired infants and their families.

Sec. 507. Section 508, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund Appropriation——State..... $ ((~~20,121,000~~)) 21,445,000

General Fund Appropriation——Federal..... $ 7,034,000

Total Appropriation ..... $ ((~~27,155,000~~)) 28,479,000

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

(1) $((~~3,577,000~~)) 3,462,000 of the general fund——state appropriation is provided solely for the remaining months of the 1986–87 school year.

(2) $((~~10,094,000~~)) 10,908,000 of the general fund——state appropriation is provided solely for the 1987–88 school year, distributed as follows:

(a) $4,128,000 is provided solely for programs in state institutions for the handicapped or emotionally disturbed. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of $10,294 per full time equivalent student.

(b) $((~~2,978,000~~)) 3,368,000 is provided solely for programs in state institutions for delinquent youth. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of $((~~5,405~~)) 6,112 per full time equivalent student.

(c) $((~~370,000~~)) 390,000 is provided solely for programs in state group homes for delinquent youth. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of $((~~3,492~~)) 3,678 per full time equivalent student.

(d) $((~~564,000~~)) 733,000 is provided solely for juvenile parole learning center programs. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of $((~~1,395~~)) 1,815 per full time equivalent student, and are in addition to moneys allocated for these students through the basic education formula established in section 503 of this act.

(e) $((~~2,054,000~~)) 2,289,000 is provided solely for programs in county detention centers. These moneys may be distributed for that school year at a maximum rate averaged over all of these programs of $((~~4,012~~)) 4,471 per full time equivalent student.

(3) Distribution of state funding for the 1988–89 school year shall be based upon the following overall limitations for that school year including expenditures anticipated for July and August of 1989:

(a) State funding for programs in state institutions for the handicapped or emotionally disturbed may be distributed at a maximum rate averaged over all of these programs of $10,296 per full time equivalent student and a total allocation of no more than $3,735,000 for that school year.

(b) State funding for programs in state institutions for delinquent youth may be distributed at a maximum rate averaged over all of these programs of $((~~5,410~~)) 6,116 per full time equivalent student and a total allocation of no more than $((~~2,894,000~~)) 3,272,000 for that school year.

(c) State funding for programs in state group homes for delinquent youth may be distributed in that school year at a maximum rate averaged over all of these programs of $((~~3,502~~)) 3,688 per full time equivalent student and a total allocation of no more than $((~~371,000~~)) 391,000 for that school year.

(d) State funding for juvenile parole learning center programs may be distributed at a maximum rate averaged over all of these programs of

$((~~1,387~~)) 1,808 per full time equivalent student and a total allocation of no more than $((~~560,000~~)) 730,000 for that school year, excluding funds provided through the basic education formula established in section 503 of this act.

(e) State funding for programs in county detention centers may be distributed at a maximum rate averaged over all of these programs of $((~~4,022~~)) 4,482 per full time equivalent student and a total allocation of no more than $((~~2,059,000~~)) 2,295,000 for that school year.

(4) The superintendent of public instruction may distribute a maximum of $((~~153,000~~)) 33,000 from the general fund——state appropriation to supplement moneys provided under subsections (1) through (3) of this section, for the purpose of addressing enrollment variations or other program needs, including increases in summer school programs.

(5) $100,000 of the general fund——state appropriation is provided solely for grants for the establishment of job search skills, preemployment training, and job placement programs at state institutions for delinquent youth. Grants provided under this subsection shall not exceed twenty-five thousand dollars for any individual institution.

(6) $120,000 of the general fund——state appropriation is provided solely to increase the teacher/student ratio for programs at mentally ill offender units within the state institutions for delinquent youth.

(7) Notwithstanding any other provision of this section, the superintendent of public instruction may transfer funds between the categories of institutions identified in subsections (2) and (3) of this section, so long as the maximum expenditures per full time equivalent student for each category of institution are not thereby exceeded.

Sec. 508. Section 509, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund Appropriation ..... $ ((~~11,294,000~~)) 12,175,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $((~~1,174,000~~)) 1,111,000 is provided solely for the remaining months of the 1986–87 school year.

(2) The superintendent shall distribute funds for the 1987–88 and 1988–89 school years at a rate for each year of $420 per eligible student.

Sec. 509. Section 510, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR THE LEARNING ASSISTANCE PROGRAM

General Fund Appropriation ..... $ ((~~48,011,000~~)) 48,886,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $((~~3,982,000~~)) 3,929,000 is provided solely for the remaining months of the 1986–87 school year.

(2) Funding for school district learning assistance programs serving kindergarten through grade nine shall be distributed during the 1987–88 and 1988–89 school years at a maximum rate of $356 per unit as calculated pursuant to this subsection. The number of units for each school district in each school year shall be the sum of: (a) The number of full time equivalent students enrolled in kindergarten through grade six in the district multiplied by the percentage of the district's students taking the fourth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages eleven and below in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.13 RCW; and (b) the number of full time equivalent students enrolled in grades seven through nine in the district multiplied by the percentage of the district's students taking the eighth grade basic skills test who scored in the lowest quartile as compared to national norms, and then reduced by the number of students ages twelve through fourteen in the district who are identified as specific learning disabled and are served through programs established pursuant to chapter 28A.13 RCW. For the purposes of allocating funds for the 1987–88 school year, the superintendent shall use the most recent prior five–year average scores on the fourth grade test and the most recent prior three–year average scores on the eighth grade test. For the purposes of allocating funds for the 1988–89 school year, the superintendent shall use the most recent prior five–year average scores on the fourth grade test and the most recent prior four–year average scores on the eighth grade test.

Sec. 510. Section 511, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund Appropriation ..... $ ((~~5,272,000~~)) 5,275,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $((~~482,000~~)) 458,000 is provided solely for distribution to school districts for the remaining months of the 1986–87 school year.

(2) $((~~2,483,000~~)) 2,458,000 is provided solely for allocations for school district programs for highly capable students during the 1987–88

school year, distributed at a maximum rate of $338 per student for up to one percent of each district's 1987–88 full time equivalent enrollment.

(3) Allocations for school district programs for highly capable students in the 1988–89 school year are to be calculated at a maximum rate for that school year of $341 per student for up to one percent of each district's 1988–89 full time equivalent enrollment.

(4) A maximum of $340,000 is provided to contract for gifted programs to be conducted at Fort Worden state park.

Sec. 511. Section 513, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR VOCATIONAL-TECHNICAL INSTITUTES AND ADULT EDUCATION AT VOCATIONAL-TECHNICAL INSTITUTES

General Fund Appropriation ..... $ ((~~75,138,000~~)) 75,023,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Funding for vocational programs during the 1987–88 school year shall be distributed at a rate of $2,888 per student for a maximum of 12,050 full time equivalent students.

(2) Funding for vocational programs during the 1988–89 school year shall be distributed at a rate of $2,930 per student for a maximum of 12,050 full time equivalent students.

(3) Funding for adult basic education programs during the 1987–88 school year shall be distributed at a rate of $1.40 per hour of student service for a maximum of 288,690 hours.

(4) Funding for adult basic education programs during the 1988–89 school year shall be distributed at a rate of $1.41 per hour of student service for a maximum of 288,690 hours.

(5) $2,000,000 is provided solely for purchase and replacement of equipment to be used in vocational courses.

(6) $((~~3,000,000~~)) 2,700,000 is provided solely for the establishment and operation of the Washington institute of applied technology within the Seattle area. This program shall be administered under a cooperative agreement between the Seattle school district, Seattle community college district No. 6, and the Seattle private business community. If Engrossed Senate Bill No. 5996 is not enacted by June 30, 1987, the amount provided in this subsection shall lapse.

(7) $185,000 is provided solely to increase the funding rate for vocational programs, effective May 1, 1989, by $147 per full time equivalent student. The increase is provided to assist vocational–technical institutes in replacing out–of–date or worn–out equipment used for vocational training.

Sec. 512. Section 514, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR SPECIAL AND PILOT PROGRAMS

General Fund Appropriation——State	$	((~~13,434,000~~)) 13,808,000
General Fund Appropriation——Federal	$	4,000,000
Total Appropriation	$	((~~17,434,000~~)) 17,808,000

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

(1) $855,000 of the general fund——state appropriation is provided solely for a contract with the Pacific Science Center for travelling van programs and other educational services for public schools. The Pacific Science Center shall work towards an equitable distribution of program activities state-wide. The center shall also determine the extent to which the state-wide need for science enrichment for K-12 students and teachers is being met by the outreach programs partially funded by this appropriation. The Pacific Science Center shall examine the geographical and demographic distribution of the populations served by these activities and recommend methods for efficiently reaching underserved student and teacher populations. These findings and recommendations shall be reported to the legislature by July 1, 1988.

(2) $84,000 of the general fund——state appropriation is provided solely for a contract with the Cispus learning center for environmental education programs.

(3) $4,000,000 of the general fund——federal appropriation is provided solely for the implementation of the substance abuse prevention programs.

(4) $5,500,000 of the general fund——state appropriation is provided for solely for the implementation of the drop-out prevention and retrieval provisions of ((~~Engrossed Second Substitute House Bill No. 456. If the bill is not enacted by June 30, 1987, this amount shall lapse~~)) RCW 28A.120-.060 through 28A.120.072.

(5) $2,020,000 of the general fund——state appropriation is provided solely for the implementation of the schools for the twenty-first century pilot programs established by ((~~Engrossed Substitute Senate Bill No. 5479. If the bill is not enacted by June 30, 1987, this amount shall lapse~~)) RCW 28A.100.030 through 28A.100.068.

(6) $2,900,000 of the general fund——state appropriation is provided solely for the beginning teachers assistance program established under ((~~Substitute Senate Bill No. 5622. If the bill is not enacted by June 30, 1987, this amount shall lapse~~)) RCW 28A.67.240. For fiscal year 1989,

moneys shall be distributed under this subsection at a maximum rate of $1,700 per mentor/beginning teacher team.

(7) $225,000 of the general fund——state appropriation is provided solely for child abuse education provisions of ((~~Engrossed Substitute Senate Bill No. 5252. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse~~)) RCW 28A.03.512 through 28A.03.514.

(8) $1,600,000 of the general fund——state appropriation is provided solely for grants to public or private nonprofit organizations for scholarships or support services, including but not limited to child care or transportation, for parents of children in headstart or early childhood education and assistance programs who are enrolled in adult literacy classes or tutoring programs under ((~~Engrossed Second Substitute House Bill No. 456. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse~~)) RCW 28A.130.010 through 28A.130.020.

(9) $250,000 of the general fund——state appropriation is provided solely for the implementation of the student teaching pilot project established by ((~~Engrossed Substitute Senate Bill No. 5479. If the bill is not enacted by June 30, 1987, the amount provided in this subsection shall lapse~~)) RCW 28A.100.030 through 28A.100.068.

(10) $314,000 of the general fund——state appropriation is provided solely for in-service training and other costs associated with the development of a comprehensive K-12 health education curriculum, including an integral component relating to acquired immunodeficiency syndrome.

(11) $60,000 of the general fund——state appropriation is provided solely to establish and operate a toll free telephone number at the Lifeline Institute to assist school districts in youth suicide prevention.

Sec. 513. Section 516, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR PUPIL TRANSPORTATION

General Fund Appropriation ..... $ ((~~216,956,000~~)) 221,840,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $((~~20,678,000~~)) 20,422,000 is provided solely for distribution to school districts for the remaining months of the 1986-87 school year.

(2) A maximum of $((~~95,546,000~~)) 97,507,000 may be distributed for pupil transportation operating costs in the 1987-88 school year.

(3) A maximum of $800,000 may be expended for regional transportation coordinators.

(4) A maximum of $60,000 may be expended for bus driver training.

(5) A maximum of $152,000 may be expended for the state school for the deaf and the state school for the blind to contract for transportation of

day students enrolled in those schools. Transportation services funded under this subsection are not eligible for additional state reimbursement provided through the allocation formulas for school district or educational service district pupil transportation programs, but shall, to the maximum extent feasible, be reimbursed on the same basis.

NEW SECTION. Sec. 514. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION——FOR SCHOOL EMPLOYEE INSURANCE BENEFIT INCREASES

General Fund Appropriation ..... $ 31,878,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Effective October 1, 1988, allocations for insurance benefits for school district and education service district employees are increased to a rate of $224.75 per month for each full time equivalent certificated employee, and $224.75 per month for each full time equivalent classified employee as calculated pursuant to this subsection. For the purposes of allocations of insurance benefits, full time equivalent classified employees shall be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full time equivalent.

(2) The appropriation in this section is provided solely to increase insurance benefit allocations for state-funded certificated and classified staff units in the 1988–89 school year, distributed as follows:

(a) A maximum of $25,717,000 may be expended to increase insurance benefit allocations for basic education staff units under section 502(5) of this act by $57.75 per month.

(b) A maximum of $3,303,000 may be expended to increase insurance benefit allocations for handicapped program staff units as calculated under section 506 of this act by $57.75 per month.

(c) A maximum of $174,000 may be expended to increase insurance benefit allocations for state-funded staff in educational service districts and institutional education programs by $57.75 per month.

(d) A maximum of $2,684,000 may be expended to fund insurance benefit increases in the following categorical programs by increasing state funding rates for the 1988–89 school year as follows:

(i) For pupil transportation, an increase of $0.48 per weighted pupil mile;

(ii) For learning assistance, an increase of $13.23 per pupil;

(iii) For education of highly capable students, an increase of $4.54 per pupil;

(iv) For transitional bilingual education, an increase of $8.59 per pupil;

(v) For vocational–technical institutes, an increase of $35.22 per full time equivalent pupil.

PART VI
HIGHER EDUCATION

Sec. 601. Section 601, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

The appropriations in sections 602 through 608 of this act are subject to the following conditions and limitations:

(1) For the purposes of this section and sections 602 through 608 of this act, "institutions of higher education" means the institutions receiving appropriations pursuant to sections 602 through 608 of this act.

(2) Student Quality Standard: During the 1987–89 fiscal biennium, each institution of higher education shall not expend less than the average biennial amount listed in this subsection per full time equivalent student. The amounts include total appropriated operating expenses for the institution, less expenditures for plant maintenance and operations, with the exception of Washington State University, where cooperative extension and agriculture research are also excluded from the per student expenditures. This expenditure per student requirement may vary by two percent if the director of financial management certifies that the failure to meet the minimum expenditures per student is attributable to circumstances beyond the control of the institution.

University of Washington	$	7,763
Washington State University	$	6,549
Central Washington University, Eastern Washington University, The Evergreen State College, and Western Washington University:		
The first 3000 FTE Students	$	5,974
Each Student over 3000 FTE	$	3,895
State Board for Community College Education	$	2,793

(3) Each institution of higher education and the state board for community college education shall report to the 1989 regular session of the legislature the following information:

(a) The number of minority students attending the institution or the community college system and the measures taken by such institution or system during the 1987–89 fiscal biennium to increase the number of minority students and reduce the drop–out rates for minority and other students;

(b) The number of women employed by the institution or system and the actions taken by the institution or system to increase the number of women in managerial and senior-level positions;

(c) Actions taken by the institution or community college system to improve the quality of undergraduate and graduate education programs;

(d) Actions taken by the institution or system to expand or improve educational services off the campus and the process for evaluating the need for educational services in locations away from the campus;

(e) The process for evaluating and accepting students for admission into the institution or the system;

(f) Any process developed by the institution or the system for evaluating student performance;

(g) Actions taken by the institution or system to operate programs jointly with another public or private institution;

(h) How the faculty and exempt salary increase funds were distributed among the faculty and staff at each institution and the results of the increased salary levels on faculty and staff recruitment and retention;

(i) The annual faculty turnover rates experienced by the institution or the system; and

(j) The amount spent on instructional equipment, the type of equipment purchased, and the instructional enhancements that resulted from the additional equipment.

The state board for community college education shall collect and report the information required of the community college system under this subsection.

(4) The state board for community college education shall, jointly with the superintendent of public instruction, develop an integrated state plan for all state and federally funded vocational education services. The superintendent of public instruction and the state board for community college education shall also jointly develop a consistent and reliable data base on public vocational education, including enrollments, costs, program activities, and job placement. Such data shall be made available to the office of the governor and the legislature.

((~~(6)~~)) (5) Central Washington University, Eastern Washington University, and Western Washington University shall each collect summer term tuition fees at the same rates established for the regular academic quarter and shall transfer the fees to the state treasury in accordance with RCW 28B.15.031.

((~~(7)~~)) (6) The appropriations in sections 602 through 608 of this act provide the following amounts to identify and recruit minority students from junior high and high schools in the state, to foster minority student interest in a college education, to provide support services such as counseling and tutorial assistance, and to improve the retention of such students in higher education through and beyond the baccalaureate level. At least

$147,000 of the amount appropriated to the University of Washington shall go to increase the efforts of the math, engineering, and science achievement program.

University of Washington	$	522,000
Washington State University	$	225,000
Central Washington University	$	113,000
Eastern Washington University	$	150,000
The Evergreen State College	$	75,000
Western Washington University	$	150,000

((~~(8)~~)) (7) The following are the maximum amounts that may be expended at each institution of higher education from the appropriations in sections 602 through 608 of this act for continuing the salary increases authorized by section 604, chapter 7, Laws of 1987 (ESSB 5351) from July 1, 1987, through February 29, 1988:

University of Washington	$	3,893,000
Washington State University	$	2,083,000
Central Washington University	$	405,000
Eastern Washington University	$	489,000
The Evergreen State College	$	212,000
Western Washington University	$	575,000
State Board for Community College Education	$	((~~4,036,000~~)) 3,196,000

Expenditures under this subsection shall be consistent with all terms and conditions contained in section 604, chapter 7, Laws of 1987 (ESSB 5351), which are hereby incorporated by reference.

((~~(9)~~)) (8) The following are maximum amounts which each institution may spend from the appropriations in sections 602 through 608 of this act for faculty and exempt staff salary increases and are subject to all the limitations contained in this section. For the purpose of allocating these funds, "faculty" includes all instructional and research faculty, academic deans, department chairpersons, and community college librarians and counselors who are not part of the state classified service system. "Exempt staff" includes presidents, chancellors, vice-presidents, administrative deans and professional personnel, and four-year institution librarians and counselors who are exempt from the classified service system.

University of Washington	$	((~~19,266,000~~)) 19,058,000
Washington State University	$	((~~9,493,000~~)) 9,330,000
Central Washington University	$	((~~2,159,000~~)) 2,152,000

Eastern Washington University	$	((~~2,469,000~~)) 2,441,000
The Evergreen State College	$	((~~1,069,000~~)) 1,060,000
Western Washington University	$	((~~2,893,000~~)) 2,851,000
State Board for Community College Education	$	((~~14,283,000~~)) 14,667,000
Higher Education Coordinating Board	$	55,000

These amounts are intended to provide full time faculty and teaching and research assistants, and medical residents at each four-year institution and the community college system as a whole the average percentage increase, including increments, enumerated below on the effective dates indicated:

	March 1, 1988	January 1, 1989
University of Washington	8.5%	8.4%
Washington State University	8.2%	8.1%
Central Washington University	7.6%	7.6%
Eastern Washington University	7.6%	7.6%
The Evergreen State College	7.6%	7.6%
Western Washington University	7.6%	7.6%
State Board for Community College Education	6.3%	6.0%

Exempt staff and part time faculty at each four-year institution, the community college system as a whole, and the higher education coordinating board are entitled to receive the average salary increases enumerated below on the effective dates indicated:

	March 1, 1988	January 1, 1989
University of Washington	5%	3%
Washington State University	5%	3%
Central Washington University	4.5%	3%
Eastern Washington University	4.5%	3%
The Evergreen State College	4.5%	3%
Western Washington University	4.5%	3%
State Board for Community College Education	4.0%	3%
Higher Education Coordinating Board	3%	3%

However, exempt librarians and counselors may be given the same percentage salary increase as the faculty at their institution if the total amount paid out for faculty and exempt salary increases is within the amounts provided in this subsection.

The salary increase authorized under this subsection may be granted to state employees at Washington State University who are supported in full or in part by federal land grant formula funds.

((~~(10)~~)) (9) In addition to the 6.3 and 6.0 percent salary increases provided to community college faculty in subsection ((~~(9)~~)) (8) of this section, $1,129,000 is provided solely to reduce the disparity in full time faculty salaries among community colleges. No funds in this subsection may be expended on administrative staff salaries. The state board for community college education shall allocate one third of these funds in fiscal year 1988 and two thirds in fiscal year 1989 as follows:

Lower Columbia College	$	124,000
Shoreline Community College	$	242,000
Community College of Spokane	$	533,000
Skagit Valley College	$	115,000
Whatcom Community College	$	18,000
Community College District 12	$	52,000
Walla Walla Community College	$	18,000
Highline Community College	$	27,000

((~~(11)~~)) (10) From the appropriations in sections 602 through 609 of this act, the following amounts for each institution are provided solely for higher education personnel board classified employees to provide a 2.65 percent or $50 per month, whichever is greater, salary increase effective January 1, 1988, and an additional 3.0 percent salary increase effective January 1, 1989. These increases shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126.

University of Washington	$	3,501,000
Washington State University	$	2,365,000
Central Washington University	$	478,000
Eastern Washington University	$	583,000
The Evergreen State College	$	337,000
Western Washington University	$	652,000
State Board for Community College Education	$	((~~3,166,000~~)) 3,350,000
Higher Education Coordinating Board	$	23,000

No salary increase may be paid under this subsection to any person whose salary has been Y-rated pursuant to rules adopted by the higher education personnel board.

((~~(12)~~)) (11) Any institution that grants an average salary increase in excess of the amounts authorized in subsection ((~~(9)~~)) (8) of this section is ineligible to receive any funds appropriated for salary increases in sections 603 through 608 of this act. Any community college district that grants an

average salary increase in excess of the amounts authorized in subsections ((~~(9) and (10)~~)) (8) and (9) of this section is ineligible to receive any funds appropriated for salary increases in section 602 of this act. The office of financial management shall adjust an institution's allotment as necessary to enforce the restrictions imposed by this section.

Sec. 602. Section 602, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

General Fund Appropriation ..... $ ((~~531,174,000~~)) 530,902,000

The appropriation in this section is subject to the following conditions and limitations:

(1) At least $170,000 shall be spent solely for necessary expenditures attributable to the fire of February 16, 1987, at Everett Community College.

(2) At least $480,000 shall be spent by the state board for community college education for the literacy tutor coordination project.

Sec. 603. Section 603, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

General Fund Appropriation	$	((~~516,799,000~~)) 516,089,000
Medical Aid Fund Appropriation	$	2,553,000
Accident Fund Appropriation	$	2,553,000
Death Investigations Account Appropriation	$	594,000
Total Appropriation	$	((~~522,499,000~~)) 521,789,000

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

(1) $10,500,000 of the general fund appropriation is provided solely for equipment.

(2) A maximum of $75,000 may be spent to identify suitable spaces in the vicinity of the University of Washington for use as child day care centers for the children of university civil service employees and for start-up costs of the day care centers.

(3) $400,000 is provided solely to conduct a study of the potential environmental and economic impacts of oil and mineral exploration off the coast of Washington.

(4) At least $75,000 of the appropriations in this section shall be spent for research on the health and safety hazards of video display terminals in the workplace.

(5) $200,000 of the general fund appropriation is provided solely for rental costs on a building to house clinical and laboratory space for the treatment of patients with AIDS and the training of health care professionals in such treatment.

(6) The University of Washington shall take whatever actions are necessary to maximize refunds from the social security administration during the 1987-89 biennium and shall transfer to the general fund the refund received from the social security administration for graduate teaching and research assistants paid from the state general fund from January 1, 1980, through June 30, 1987.

(7) At least $10,000 shall be spent for a study on the predation of sockeye smolt in Lake Washington.

(8) $300,000 of the general fund——state appropriation is provided solely to conduct an assessment, in consultation with local community organizations in the Puget Sound area, of higher education needs and programs to be offered at branch campuses in accordance with the higher education coordinating board master plan.

Sec. 604. Section 604, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

General Fund Appropriation ..... $ ((~~287,150,000~~)) 287,152,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $4,717,000 is provided solely for equipment.

(2) Funds are provided to Washington State University to continue the Yakima nursing training program.

(3) $500,000 of the appropriation is provided solely to initiate upper division programs and expand graduate programs at the Southwest Washington joint center for education.

(4) $165,000 of the appropriation is provided solely for additional training of education professionals at the Southwest Washington joint center for education.

(5) $427,000 is provided solely for start-up and operation of the health research and education center in Spokane.

((~~(5)~~)) (6) $750,000 is provided solely to enhance and operate the Washington higher education telecommunications system (WHETS) for the purpose of allowing the delivery of university courses directly to Spokane, Vancouver, Seattle, and the Tri-Cities.

Sec. 605. Section 605, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

General Fund Appropriation ..... $ ((~~81,688,000~~))
81,559,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $1,157,000 is provided solely for equipment.

(2) $150,000 is provided solely for start–up and operation of the health research and education center in Spokane.

Sec. 606. Section 606, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

General Fund Appropriation ..... $ ((~~68,969,000~~))
68,962,000

The appropriation in this section is subject to the following conditions and limitations: ((~~(1)~~)) $1,015,000 is provided solely for equipment.

Sec. 607. Section 607, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

General Fund Appropriation ..... $ ((~~40,269,000~~))
40,260,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $945,000 is provided solely for equipment.

(2) $400,000 of the general fund appropriation is provided solely for the Washington state center for the improvement of the quality of undergraduate education.

(3) $300,000 of the general fund appropriation is provided solely for summer seminars in coordination with the national faculty of humanities, arts and sciences to improve the quality of teaching in high schools and community colleges.

(4) At least $200,000 shall be spent for a labor center. The college shall endeavor to obtain additional funds for the labor center from nonstate sources.

Sec. 608. Section 608, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

General Fund Appropriation ..... $ ((~~87,675,000~~))
87,231,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $2,421,000 is provided solely for equipment.

(2) $96,000 of the general fund appropriation is provided solely for development of a value-added testing program to measure educational attainment of students while enrolled at the university.

Sec. 609. Section 609, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD

General Fund Appropriation——State	$	((~~52,344,000~~)) 52,324,000
General Fund Appropriation——Federal	$	3,471,000
State Educational Grant Appropriation	$	40,000
Total Appropriation	$	((~~55,855,000~~)) 55,835,000

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

(1) $43,392,000 of the general fund——state appropriation is provided solely for student financial aid, including administrative costs. Of that amount, a minimum of $18,100,000 shall be expended for work study grants and $50,000 shall be expended for implementation of Senate Bill No. 6638, the nursing student scholarship program. The state need grant program shall emphasize, to the extent possible, the provision of aid to low-income single parents with dependents.

(2) $((~~5,000,000~~)) 4,750,000 of the general fund——state appropriation is provided solely for the distinguished professorship trust fund.

(3) $300,000 of the general fund appropriation is provided solely for the implementation of House Bill No. 857, the teachers conditional scholarship program.

(4) $900,000 of the general fund——state appropriation is provided solely for the displaced homemaker program.

(5) Prior to January 1, 1989, $50,000 of the general fund——state appropriation is provided solely to support the special joint study group created by Senate Concurrent Resolution No. 8429. The money shall be transferred to the office of financial management via interagency reimbursement and shall be used for contracted services and other support activities of the study group. After January 1, 1989, these funds may be used for any expenses of the higher education coordinating board or its staff.

(6) $200,000 of the general fund——state appropriation is provided solely for grants for Washington scholars authorized by Senate Bill No. 5558. If the bill is not enacted by July 1, 1988, the amount provided in this subsection shall lapse.

(7) A maximum of $30,000 of the general fund——state appropriation may be used to provide one staff person to coordinate the minority recruitment efforts of the state institutions of higher education. The amount provided in this subsection is contingent on the board matching the $30,000

with an equal amount of money from nonstate sources other than student financial aid funds.

PART VII
SPECIAL APPROPRIATIONS

Sec. 701. Section 701, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE GOVERNOR——COMPENSATION——SALARY AND INSURANCE BENEFITS

General Fund Appropriation——State	$	((~~45,845,000~~)) 70,853,000
General Fund Appropriation——Federal	$	((~~9,645,000~~)) 13,973,000
Special Fund Salary and Insurance Contribution Increase Revolving Fund Appropriation	$	((~~36,835,000~~)) 46,935,000
Total Appropriation	$	((~~92,325,000~~)) 131,761,000

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) $30,722,000 of the general fund——state appropriation, $9,644,000 of the general fund——federal appropriation, and $25,397,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a 2.65 percent or $50 per month, whichever is greater, salary increase effective January 1, 1988, and an additional 3.0 percent salary increase effective January 1, 1989, for all state personnel board classified and exempt employees. These increases shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126.

(2) $1,000 of the general fund——federal appropriation and $82,000 of the special fund salary and insurance revolving fund appropriation are provided for a 2.65 percent or $50 per month, whichever is greater, salary increase effective January 1, 1988, and an additional 3.0 percent salary increase effective January 1, 1989, for higher education personnel board classified and exempt employees ((~~employed by the higher education coordinating board and the higher education personnel board~~)). These increases shall be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126.

(3) $123,000 of the general fund——state appropriation and $2,056,000 of the special fund salary and insurance contribution increase revolving fund appropriation are provided for a three percent salary increase effective January 1, 1988, followed by an additional three percent salary increase effective January 1, 1989, for commissioned officers of the Washington state patrol.

(4) The governor shall allocate to state agencies from the general fund——state appropriation $5,000,000 for fiscal year 1988 and $10,000,000 for fiscal year 1989, and from the special fund salary and insurance contribution increase revolving fund appropriation $3,100,000 for fiscal year 1988 and $6,200,000 for fiscal year 1989 to fulfill the 1987–89 obligations of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126.

(5) $246,000 of the special fund salary and insurance contribution increase revolving fund appropriation is provided solely for salary increases, equal to the percentage increases identified in section 601 of this 1988 act, for faculty and exempt employees employed by the University of Washington.

(6)(a) The monthly contributions for insurance benefits shall not exceed ((~~$167.00~~)) $224.75 per eligible employee.

(b) Any returns of funds to the state employees' insurance board resulting from favorable claims experienced during the 1987–89 biennium shall be held in reserve within the state employees insurance fund until appropriated by the legislature.

(c) Funds provided under this section, including funds resulting from dividends or refunds, shall not be used to increase employee insurance benefits over the level of services provided on the effective date of this act. Contributions by any county, municipal, or other political subdivision to which coverage is extended after the effective date of this act shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date on which coverage is extended.

((~~(6)~~)) (7) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

((~~(7)~~)) (8) In calculating individual agency allocations for this section, the office of financial management shall calculate the allocation of each subsection separately. The separate allocations for each agency may be combined under a single appropriation code for improved efficiency. The office of financial management shall transmit a list of agency allocations by subsection to the committees on ways and means of the senate and house of representatives.

((~~(8)~~)) (9) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the state personnel board or the higher education personnel board.

(10) The appropriation for ferry workers in this section shall be available for salary and benefit increases in accordance with section 30(4), chapter 10, Laws of 1987 1st ex. sess., as amended by the 1988 legislature.

Sec. 702. Section 702, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—— CONTRIBUTIONS TO RETIREMENT SYSTEMS

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall be made on a quarterly basis.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system.

	FY 1988	FY 1989
Revenue Accrual Account Appropriation . . .	$ 57,134,000	((~~52,866,000~~)) 52,526,000
Total Appropriation	$((~~110,000,000~~)) 109,660,000	

(2) There is appropriated for contributions to the judicial retirement system an amount sufficient to meet the cash flow requirements of all benefit payments made during the 1987–89 biennium.

	FY 1988	FY 1989
General Fund Appropriation	$ 1,350,000	1,350,000
Total Appropriation	$2,700,000	

(3) There is appropriated for contributions to the judges retirement system an amount sufficient to meet the cash flow requirements of all benefit payments made during the 1987–89 biennium.

	FY 1988	FY 1989
General Fund Appropriation	$ 800,000	800,000
Total Appropriation	$1,600,000	

(4) The initial employer trust fund contribution rate for all employers of members of the retirement system governed by chapter 41.32 RCW (the teachers' retirement system) shall be set at 11.22% of earnable compensation for the 1987–89 biennium.

(5) The initial employer trust fund contribution rate for all employers of members of the retirement system governed by chapter 41.40 RCW (the public employees' retirement system) shall be set at 5.92% of compensation earnable for the 1987–89 biennium.

(6) The employer rate for all employers of members of the retirement system governed by chapter 43.43 RCW (the state patrol retirement system) shall be set at 19.88% of compensation, the level recommended by the state actuary.

Sec. 703. Section 703, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT——CONTRIBUTIONS TO RETIREMENT SYSTEMS

	FY 1988	FY 1989
General Fund Appropriation	$ ((~~1,300,000~~)) 1,767,000	((~~1,300,000~~)) 1,767,000
Total Appropriation	$((~~2,600,000~~)) 3,534,000	

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

(1) $600,000 of the general fund——state appropriation shall be distributed to state agencies for the purpose of additional contributions required for the public employees' retirement system as a result of ((~~Senate Bill No. 5150~~)) chapter 192, Laws of 1987.

(2) $((~~2,000,000~~)) 2,559,000 of the general fund——state appropriation shall be distributed to the superintendent of public instruction for the purpose of additional contributions required for the teachers' retirement system as a result of ((~~Senate Bill No. 5150~~)) chapter 192, Laws of 1987 and chapter 455, Laws of 1987.

(3) ((~~If Senate Bill No. 5150 is not enacted by June 30, 1987, the appropriations in this section shall lapse~~)) $375,000 of the general fund——state appropriation shall be distributed to the superintendent of public instruction for the purpose of additional contributions required for the public employees' retirement system as a result of chapter 136, Laws of 1987, chapter 192, Laws of 1987, and chapter 455, Laws of 1987.

Sec. 704. Section 705, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE GOVERNOR—INDIAN CLAIMS

General Fund Appropriation ..... $ 4,000,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Before June 30, ((~~1988~~)) 1989, the governor, through the department of community development, in consultation with the attorney general, may use all or any portion of the amount appropriated for the purpose of settling the claims of the Puyallup Indian tribe to lands formerly lying beneath the Puyallup river.

(2) On and after July 1, ((~~1988~~)) 1989, the governor through the department of general administration may provide for purchasing, for current

or future public purposes, any land for which the tribal claim remains unsettled, subject to all of the following:

(a) Before March 31, ((~~1989~~)) 1990, the owner of the land must offer in writing to sell the land at a price not exceeding what its market value would be without the tribal claim.

(b) If a parcel lies partially on lands formerly beneath the Puyallup river and partially outside such lands, the department also may elect to purchase all or part of the portion lying outside such lands if the purchase is reasonably necessary to make the purchased land suitable for a public purpose.

(c) The sale to the state of each parcel shall include an assignment of any rights the landowner has against others for defects in title to the land.

(d) In order to facilitate the use of the land for a public purpose, the department may purchase parcels conditioned on access being provided by the seller or other landowners. The department may also use any other lawful means to gain access to the purchased land.

Sec. 705. Section 712, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE TREASURER——TRANSFERS

General Fund Appropriation: For transfer to the Institutional Impact Account	$	316,600
General Fund Appropriation: For transfer to the Landowner Contingency Forest Fire Suppression Account	$	285,000
General Government Special Revenue Fund——State Treasurer's Service Account Appropriation: For transfer to the general fund on or before July 20, 1989, an amount up to $5,000,000 in excess of the cash requirements in the State Treasurer's Service Account for fiscal year 1990, for credit to the fiscal year in which earned	$	5,000,000
Charitable, Educational, Penal and Reformatory Institutions Account Appropriations: For transfer to the Resource Management Cost Account to the extent that funds are available as determined by the department of natural resources. The department shall provide the state treasurer with a schedule of such transfers	$	3,000,000
General Fund Appropriation: For transfer to the Natural Resources Fund——Water Quality Account	$	7,913,300

General Fund Appropriation: For transfer to the Miscellaneous Fund——Tort Claims Revolving Fund ..... $ ((~~2,500,000~~)) 5,978,000

Liquor Revolving Fund Appropriation: For Transfer to the Miscellaneous Fund—— Tort Claims Revolving Fund ..... $ 573,000

Employment Security Fund——Deferred Compensation Revolving Fund: For transfer to the Motor Vehicle Fund ..... $ 861,000

Ferry System Fund: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation, Washington state ferry system during the period July 1, 1987, through June 30, 1989..... $ 884,100

Puget Sound Ferry Operations Account: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation, Washington state ferry system during the period July 1, 1987, through June 30, 1989..... $ 378,900

Motor Vehicle Fund: For transfer to the Tort Claims Revolving Fund for claims paid on behalf of the department of transportation and the state patrol during the period July 1, 1987 through June 30, 1989 ..... $ 14,200,000

State Employees Insurance Principal Account: For transfer to the General Fund ..... $ 2,700,000

Sec. 706. Section 715, chapter 7, Laws of 1987 1st 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 ..... $ ((~~6,187,000~~)) 6,225,000

General Fund Appropriation for public utility district excise tax distribution ..... $ ((~~24,031,000~~)) 21,138,000

General Fund Appropriation for prosecuting attorneys' salaries ..... $ 1,950,000

General Fund Appropriation for motor vehicle excise tax distribution ..... $ ((~~58,630,000~~)) 59,751,000

General Fund Appropriation for local mass transit assistance	$	((~~177,580,000~~)) 185,535,000
General Fund Appropriation for camper and travel trailer excise tax distribution	$	((~~2,283,000~~)) 2,152,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution	$	60,000
Liquor Excise Tax Fund Appropriation for liquor excise tax distribution	$	((~~17,807,000~~)) 18,233,000
Motor Vehicle Fund Appropriation for motor vehicle fuel tax and overload penalties distribution	$	((~~272,649,000~~)) 268,082,000
Liquor Revolving Fund Appropriation for liquor profits distribution	$	((~~39,100,000~~)) 42,740,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties	$	((~~39,044,000~~)) 44,291,000
Municipal Sales and Use Tax Equalization Account Appropriation	$	((~~31,570,000~~)) 32,174,000
County Sales and Use Tax Equalization Account Appropriation	$	((~~10,900,000~~)) 11,062,000
Death Investigations Account Appropriation for distribution to counties for public funded autopsies	$	((~~592,000~~)) 688,000
Total Appropriation	$	((~~682,383,000~~)) 694,081,000

The appropriations in this section are subject to the following conditions and limitations: $96,000 is provided from the death investigations account appropriation for the purpose of reimbursing counties up to the maximum level authorized by RCW 68.08.104 for expenses incurred in the 1985–87 biennium.

Sec. 707. Section 717, chapter 7, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE TREASURER——BOND RETIREMENT AND INTEREST, INCLUDING ONGOING BOND REGISTRATION AND TRANSFER CHARGES

Fisheries Bond Redemption Fund 1977 Appropriation	$	1,280,467
Salmon Enhancement Bond Redemption Fund 1977 Appropriation	$	5,479,684
Higher Education Refunding Bond Redemption Fund 1977 Appropriation	$	8,773,875
Fire Service Training Center Bond Retirement Fund 1977 Appropriation	$	1,619,731
Highway Bond Retirement Fund Appropriation	$	171,910,324
Indian Cultural Center Construction Bond Redemption Fund 1976 Appropriation	$	233,575
Higher Education Bond Redemption Fund 1977 Appropriation	$	19,528,417
Ferry Bond Retirement Fund 1977 Appropriation	$	25,627,988
Emergency Water Projects Bond Retirement Fund 1977 Appropriation	$	2,604,490
Public School Building Bond Redemption Fund 1965 Appropriation	$	1,238,790
((~~Spokane River Toll Bridge Account Appropriation~~	$	~~889,088~~))
Higher Education Bond Retirement Fund 1979 Appropriation	$	10,736,990
State General Obligation Bond Retirement Fund 1979 Appropriation	$	((~~327,069,045~~)) 307,961,175
Fisheries Bond Redemption Fund 1976 Appropriation	$	764,034
State Building Bond Redemption Fund 1967 Appropriation	$	656,800
Community College Capital Construction Bond Redemption Fund 1975, 1976, 1977 Appropriation	$	11,423,031
Common School Building Bond Redemption Fund 1967 Appropriation	$	6,890,745
Outdoor Recreation Bond Redemption Fund 1967 Appropriation	$	6,292,542
Water Pollution Control Facilities Bond Redemption Fund 1967 Appropriation	$	4,067,765

State Building and Higher Education Construction Bond Redemption Fund 1967 Appropriation	$	10,349,392
State Building and Parking Bond Redemption Fund 1969 Appropriation	$	2,448,830
Waste Disposal Facilities Bond Redemption Fund Appropriation	$	57,944,960
Water Supply Facilities Bond Redemption Fund Appropriation	$	11,952,815
Social and Health Services Facilities 1972 Bond Redemption Fund Appropriation	$	3,705,605
Recreation Improvements Bond Redemption Fund Appropriation	$	5,986,813
Community College Capital Improvement Bond Redemption Fund 1972 Appropriation	$	7,499,389
State Building Authority Bond Redemption Fund Appropriation	$	9,452,680
Office–Laboratory Facilities Bond Redemption Fund Appropriation	$	270,900
University of Washington Hospital Bond Retirement Fund 1975 Appropriation	$	1,163,924
Washington State University Bond Redemption Fund 1977 Appropriation	$	559,915
Higher Education Bond Redemption Fund 1975 Appropriation	$	2,165,785
State Building Bond Redemption Fund 1973 Appropriation	$	3,794,144
State Building Bond Retirement Fund 1975 Appropriation	$	424,780
State Higher Education Bond Redemption Fund 1973 Appropriation	$	4,367,163
Social and Health Services Bond Redemption Fund 1976 Appropriation	$	9,475,867
State Building (Expo 74) Bond Redemption Fund 1973A Appropriation	$	372,820
Community College Refunding Bond Retirement Fund 1974 Appropriation	$	9,436,996
State Higher Education Bond Redemption Fund 1974 Appropriation	$	1,190,700
Total Appropriation	$	((~~749,650,859~~)) 729,653,901

NEW SECTION. Sec. 708. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

BOND RETIREMENT——STATE TRADE AND CONVENTION CENTER

The following is appropriated from the state trade and convention center account for reimbursement to the general fund for the transfer to the state general obligation bond retirement fund for disbursement of bond retirement and interest, including ongoing bond registration and transfer charges:

State Convention and Trade Center Account

Appropriation ..... $ 19,746,278

NEW SECTION. Sec. 709. A new section is added to chapter 7, Laws of 1987 1st ex. sess. to read as follows:

BOND RETIREMENT——SPOKANE RIVER TOLL BRIDGE

The following is appropriated from the Spokane River toll bridge revolving account to the Spokane River toll bridge account for disbursement of bond retirement and interest, including ongoing bond registration and transfer charges:

Spokane River Toll Bridge Revolving Account

Appropriation ..... $ 889,088

Sec. 710. Section 7, chapter 13, Laws of 1983 1st ex. sess. and RCW 50.16.070 are each amended to read as follows:

The federal interest payment fund shall consist of contributions payable by each employer (except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, employers who are required to make payments in lieu of contributions, and employers paying contributions under RCW 50.44.035) for any calendar quarter which begins on or after January 1, 1984, and for which the commissioner determines that the department will have an outstanding balance of accruing federal interest at the end of the calendar quarter. The amount of wages subject to tax shall be determined according to RCW 50-.24.010. The tax rate applicable to wages paid during the calendar quarter shall be determined by the commissioner and shall not exceed fifteen one-hundredths of one percent. In determining whether to require contributions as authorized by this section, the commissioner shall consider the current balance in the federal interest payment fund and the projected amount of interest which will be due and payable as of the following September 30. Except as appropriated for the fiscal biennium ending June 30, 1989, any excess moneys in the federal interest payment fund shall be retained in the fund for future interest payments.

Contributions under this section shall become due and be paid by each employer in accordance with such rules as the commissioner may prescribe and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

Sec. 711. Section 3, chapter 272, Laws of 1987 (uncodified) is amended to read as follows:

EVERETT HOME PORT

(1) There is hereby appropriated to the office of financial management for the biennium beginning July 1, 1987, and ending June 30, 1989:

(a) ((~~Ten million, four hundred seventy~~)) two million, two hundred sixty-six thousand dollars from the general fund——state;

(b) One million, one hundred sixty-nine thousand dollars from the general fund——federal;

(c) Three hundred ninety-two thousand dollars from the state electrical license fund;

(d) Five hundred thirty-three thousand dollars from the state accident fund; and

(e) Five hundred thirty-three thousand dollars from the state medical aid fund.

(2) The appropriations in this section are provided solely for the purposes of this act and are subject to the following conditions and limitations:

(a) The appropriations in this section are provided solely for the increased demands for public services as a result of the development or construction of the Everett home port. No funds, except those related to the educational impacts associated with the arrival of the U.S.S. Nimitz, may be spent, except as may be necessary for planning and monitoring to meet the requirements of federal legislation authorizing the construction of the Everett home port, until the following conditions are met: (i) Actual construction or site preparation is started, and (ii) the federal government releases to be obligated, or expended, the $43.5 million appropriated in federal fiscal year 1987 in section 2208 of the national defense authorization act for construction of the home port, and (iii) all required local, state, and federal permits for site construction, preparation, and dredging are obtained.

(b) The governor shall allocate funds to the superintendent of public instruction, the department of social and health services, the department of community development, the department of fisheries, the department of ecology, and the department of labor and industries. The governor shall allocate these appropriations to specific agencies based on increased agency ((~~operating~~)) expenditures and workload directly associated with the Everett home port. The governor may release to the specific agencies only the amount necessary to offset the directly incurred increased costs which have been documented by the agency.

(c) Any appropriation adjustments and actions that the governor has taken related to the Everett home port and pursuant to this appropriation

shall be reported to the legislature on January 1, 1988, and January 1, 1989.

PART VIII
MISCELLANEOUS

Sec. 801. Section 4, chapter 7, Laws of 1982 2nd ex. sess. as last amended by section 2, chapter 511, Laws of 1987 and RCW 67.70.040 are each amended to read as follows:

The commission shall have the power, and it shall be its duty:

(1) To promulgate such rules governing the establishment and operation of a state lottery as it deems necessary and desirable in order that such a lottery be initiated at the earliest feasible and practicable time, and in order that such lottery produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people. Such rules shall include, but shall not be limited to, the following:

(a) The type of lottery to be conducted which may include the selling of tickets or shares, or the use of electronic or mechanical devices or video terminals which do not require a printed ticket: PROVIDED, That approval of the legislature shall be required before entering any agreement with other state lotteries to conduct shared games;

(b) The price, or prices, of tickets or shares in the lottery;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares;

(e) The manner and time of payment of prizes to the holder of winning tickets or shares which, at the director's option, may be paid in lump sum amounts or installments over a period of years;

(f) The frequency of the drawings or selections of winning tickets or shares, without limitation;

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold;

(h) The method to be used in selling tickets or shares, which may include the use of electronic or mechanical devices and video terminals;

(i) The licensing of agents to sell or distribute tickets or shares, except that a person under the age of eighteen shall not be licensed as an agent;

(j) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among: (i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty–five percent of the gross annual revenue from such lottery, less

amounts of unclaimed prizes deposited in the general fund under RCW 67-.70.190 during the fiscal year ending June 30, 1989, (ii) transfers to the lottery administrative account created by RCW 67.70.260, and (iii) transfer to the state's general fund. Transfers to the state general fund shall be made in compliance with RCW 43.01.050;

(l) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(2) To ensure that in each place authorized to sell lottery tickets or shares, on the back of the ticket or share, and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket.

(3) To amend, repeal, or supplement any such rules from time to time as it deems necessary or desirable.

(4) To advise and make recommendations to the director for the operation and administration of the lottery.

Sec. 802. Section 19, chapter 7, Laws of 1982 2nd ex. sess. as amended by section 8, chapter 511, Laws of 1987 and RCW 67.70.190 are each amended to read as follows:

(1) Unclaimed prizes shall be retained in the state lottery account for the person entitled thereto for one hundred eighty days after the drawing in which the prize is won, or after the official end of the game for instant prizes. If no claim is made for the prize within this time, the prize shall be retained in the state lottery fund for further use as prizes, except as provided in subsection (2) of this section, and all rights to the prize shall be extinguished.

(2) During the fiscal year ending June 30, 1989, moneys from unclaimed prizes shall be used as follows:

(a) Fifty percent of the moneys, not exceeding one million dollars, shall be deposited quarterly in the general fund.

(b) The remainder of the moneys shall be retained in the state lottery account for further use as prizes.

NEW SECTION. Sec. 803. 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. 804. 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 10, 1988.
Passed the Senate March 10, 1988.
Approved by the Governor March 26, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 26, 1988.

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

"I am returning herewith, without my approval as to section 306(10) and a portion of section 401(5), Engrossed Substitute House Bill No. 1312 entitled:

"AN ACT Relating to fiscal matters."

Section 306(10) provides $125,000 solely to develop a salmon and steelhead rehabilitation plan for the Stillaguamish River. In 1985, the Legislature directed the Department of Fisheries to develop comprehensive resource restoration and enhancement plans for watersheds throughout the state, including the Stillaguamish River. Efforts funded under this section would be duplicative of ongoing and completed efforts under that watershed planning program. Therefore, I am vetoing this section. By separate letter I will be asking the Department of Fisheries to return the appropriation to the General Fund.

The phrase "to establish a separate unit" on line 8, section 401(5), establishes a major crimes investigation unit within the Washington State Patrol for the purposes of developing a computerized database and record system for crime scene information and to provide investigative expertise and assistance to local law enforcement agencies. There is currently a study project being conducted by the Patrol which will assess the level of assistance and technical expertise that is appropriate for the Patrol to provide to local law enforcement agencies. Consequently, it is premature to establish a separate unit within the Patrol until the study and pilot project is completed. It should be noted that during the 1988 and 1987 legislative sessions, the Legislature did consider, but failed to enact, the legislation which would have created, in statute, a separate unit dedicated to major crimes investigation within the Patrol. My veto allows the Patrol funding to work on this project without the requirement of establishing a separate dedicated unit.

With the exception of section 306(10) and a portion of section 401(5), Engrossed Substitute House Bill No. 1312 is approved."

WASHINGTON LAWS

1988 FIRST EXTRAORDINARY SESSION

CHAPTER 1

[Engrossed House Bill No. 2057]
STATE CONVENTION AND TRADE CENTER—PUBLIC FACILITIES—
HOTEL/MOTEL TAX

AN ACT Relating to public facilities; amending RCW 67.40.020, 67.40.025, 67.40.030, 67.40.040, 67.40.055, 67.40.090, 67.28.200, 67.28.210, and 67.40.100; amending section 1, chapter 8, Laws of 1987 1st ex. sess. (uncodified); amending section 9, chapter 8, Laws of 1987 1st ex. sess. (uncodified); reenacting and amending RCW 84.52.052; adding a new section to chapter 67.40 RCW; adding new sections to chapter 67.28 RCW; adding a new section to chapter 6, Laws of 1987 1st ex. sess.; adding a new chapter to Title 36 RCW; creating a new section; making appropriations and authorizing bonds; and declaring an emergency.

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

Sec. 1. Section 2, chapter 34, Laws of 1982 as last amended by section 2, chapter 8, Laws of 1987 1st ex. sess. and RCW 67.40.020 are each amended to read as follows:

(1) The governor is authorized to form a public nonprofit corporation in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW. The public corporation shall be an instrumentality of the state and have all the powers and be subject to the same restrictions as are permitted or prescribed to private nonprofit corporations, but shall exercise those powers only for carrying out the purposes of this chapter and those purposes necessarily implied therefrom. The governor shall appoint a board of nine directors for the corporation who shall serve terms of six years, except that two of the original directors shall serve for two years and two of the original directors shall serve for four years. After January 1, 1991, at least one position on the board shall be filled by a member representing management in the hotel or motel industry subject to taxation under RCW 67.40.090. The directors may provide for the payment of their expenses. The corporation may cause a state convention and trade center with an overall size of approximately three hundred thousand square feet to be designed and constructed on a site in the city of Seattle. In acquiring, designing, and constructing the state convention and trade center, the corporation shall consider the recommendations and proposals issued on December 11, 1981, by the joint select committee on the state convention and trade center.

(2) The corporation may acquire and transfer real and personal property by lease, sublease, purchase, or sale, and further acquire property by condemnation of privately owned property or rights to and interests in such property pursuant to the procedure in chapter 8.04 RCW((~~, or~~)). However, acquisitions and transfers of real property, other than by lease, may be made only if the acquisition or transfer is approved by the director of financial management in consultation with the chairpersons of the committees on ways and means of the senate and house of representatives. The

corporation may accept gifts((, accept)) or grants, request the financing provided for in RCW 67.40.030, cause the state convention and trade center facilities to be constructed, and do whatever is necessary or appropriate to carry out those purposes. ((~~The corporation may enter into lease and sublease contracts for a term exceeding the fiscal period in which such lease and sublease contracts are made: PROVIDED, That such contracts are approved by the director of financial management in consultation with the chairpersons of the ways and means committees of the house of representatives and the senate.~~)) Upon approval by the director of financial management in consultation with the chairpersons of the ways and means committees of the house of representatives and the senate, the corporation may enter into lease and sublease contracts for a term exceeding the fiscal period in which these lease and sublease contracts are made. The terms of sale or lease of properties acquired by the corporation on February 9, 1987, pursuant to the property purchase and settlement agreement entered into by the corporation on June 12, 1986, ((~~excepting~~)) including the McKay parcel which the corporation is contractually obligated to sell under that agreement, shall also be subject to the approval of the director of financial management in consultation with the chairpersons of the ways and means committees of the house of representatives and the senate. No approval by the director of financial management is required for leases of individual retail space, meeting rooms, or convention-related facilities. In order to allow the corporation flexibility to secure appropriate insurance by negotiation, the corporation is exempt from RCW 48.30.270. The corporation shall maintain, operate, promote, and manage the state convention and trade center.

(3) In order to allow the corporation flexibility in its personnel policies, the corporation is exempt from chapter 41.06 RCW, chapter 41.05 RCW, RCW 43.01.040 through 43.01.044, chapter 41.04 RCW and chapter 41.40 RCW.

(4) In order to allow the corporation to receive payment for goods and services consistent with the practice of the convention and trade show industry, the corporation may honor credit cards in payment for food and beverage purchases, rental of space or facilities, electrical services, equipment, and other goods or services offered by the corporation.

Sec. 2. Section 2, chapter 233, Laws of 1985 as amended by section 3, chapter 8, Laws of 1987 1st ex. sess. and RCW 67.40.025 are each amended to read as follows:

All operating revenues received by the corporation formed under RCW 67.40.020 shall be deposited in the state ((~~trade and~~)) convention and trade center operations account, hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation by statute, and may be used only for operation and promotion of the center.

Subject to approval by the office of financial management under RCW 43.88.260, the corporation may expend moneys for operational purposes in excess of the balance in the account, to the extent the corporation receives or will receive additional operating revenues.

((~~(4)~~)) As used in this section, "operating revenues" does not include any moneys required to be deposited in the state convention and trade center account.

Sec. 3. Section 3, chapter 34, Laws of 1982 as last amended by section 12, chapter 3, Laws of 1987 1st ex. sess. and RCW 67.40.030 are each amended to read as follows:

For the purpose of providing funds for the state convention and trade center, the state finance committee is authorized to issue, upon request of the corporation formed under RCW 67.40.020 and in one or more offerings, general obligation bonds of the state of Washington in the sum of one hundred ((~~three~~)) sixty million, seven hundred sixty-five thousand dollars, or so much thereof as may be required, to finance this project and all costs incidental thereto, to capitalize all or a portion of interest during construction, to provide for expansion, renovation, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, and contingency costs of the center, purchase of the McKay Parcel as defined in the property and purchase agreement entered into by the corporation on June 12, 1986, and to reimburse the general fund for expenditures in support of the project. The state finance committee may make such bond covenants as it deems necessary to carry out the purposes of this section and this chapter. No bonds authorized in this section may be offered for sale without prior legislative appropriation.

Sec. 4. Section 4, chapter 34, Laws of 1982 as last amended by section 4, chapter 8, Laws of 1987 1st ex. sess. and RCW 67.40.040 are each amended to read as follows:

(1) The proceeds from the sale of the bonds authorized in RCW 67-.40.030, earnings from the investment of the proceeds, proceeds of the tax imposed under RCW 67.40.090, and all other moneys received by the state convention and trade center from any public or private source which are intended to fund the acquisition, design, construction, expansion, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, purchase of the land and building known as the McKay Parcel, or renovation of the center, shall be deposited in the state convention and trade center account hereby created in the state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

(2) Seventy-five percent of the income from the investment of the corporation's funds deposited in the account, including interest earned thereon,

before and after May 10, 1985, shall be credited against any future borrowings by the state convention and trade center corporation from the general fund for debt service or otherwise at the time such funds are needed after July 1, 1987.

(3) Moneys in the account, including unanticipated revenues under RCW 43.79.270, shall be used exclusively for the following purposes in the following priority:

(a) For reimbursement of the state general fund under RCW 67.40.060;

(b) After appropriation by statute:

(i) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;

(ii) For acquisition, design, and construction of the state convention and trade center; and

(iii) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center;

~~((iv) To establish a subaccount of up to fifty million dollars for expansion or renovation of the center;~~

~~(v) For early retirement of the bonds issued under RCW 67.40.030; and~~

~~(vi) To reduce or eliminate the tax imposed under RCW 67.40.090. PROVIDED, That no proceeds from the sale of bonds or earnings from the investment of the proceeds shall be used to fund subsection (4) or (8) of this section))~~ and

(c) For transfer to the state convention and trade center operations account.

(4) The corporation shall identify with specificity those facilities of the state convention and trade center that are to be financed with proceeds of general obligation bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. The corporation shall not permit the extent or manner of private business use of those bond-financed facilities to be inconsistent with treatment of such bonds as governmental bonds under applicable provisions of the Internal Revenue Code of 1986, as amended.

Sec. 5. Section 11, chapter 8, Laws of 1987 1st ex. sess. and RCW 67-.40.055 are each amended to read as follows:

The state treasurer shall from time to time transfer from the state general fund, or such other funds as the state treasurer deems appropriate, to the state convention and trade center operations account such amounts as are necessary to fund appropriations from the account, other than, after August 31, 1988, for appropriations for the purpose of marketing the facilities or services of the state convention and trade center. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be

equivalent to the return on investments of the state treasury during the period the amounts are borrowed.

Sec. 6. Section 9, chapter 34, Laws of 1982 as amended by section 6, chapter 8, Laws of 1987 1st ex. sess. and RCW 67.40.090 are each amended to read as follows:

(1) Commencing April 1, 1982, there is imposed, and the department of revenue shall collect, in King county a special excise tax on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than sixty lodging units. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes rental or lease of real property and not a mere license to use or enjoy the same. The legislature on behalf of the state pledges to maintain and continue this tax until the bonds authorized by this chapter are fully redeemed, both principal and interest.

((~~(1)~~)) (2) The rate of the tax imposed under this section shall be((:)) as provided in this subsection.

(a) From April 1, 1982, through December 31, 1982, inclusive, the rate shall be three percent in the city of Seattle and two percent in King county outside the city of Seattle((~~, and~~)).

(b) ((~~On and after~~)) From January 1, 1983, through June 30, 1988, inclusive, the rate shall be five percent in the city of Seattle and two percent in King county outside the city of Seattle. ((~~The tax levied under this subsection (b) shall expire on the first day of the next calendar quarter after the director of financial management certifies that (i) the bonds issued pursuant to RCW 67.40.030 have been fully retired and (ii) all borrowings by the convention center for (A) bond retirement, and (B) operating expenses of the convention center incurred through June 30, 1992, have been repaid together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed.~~

~~(2) On and after October 1, 1993, in addition to the tax specified in subsection (1) of this section, there is levied a surtax for the purpose of reimbursing moneys borrowed to pay actual net operating deficits of the convention center incurred after June 30, 1992, as provided in this subsection. On or before October 1, 1993, and on or before October 1 of each succeeding year, the director of financial management shall certify the actual net operating deficit, if any, of the convention center for the prior fiscal year and shall determine the rate of surtax which, if imposed during the succeeding twelve months, will be sufficient to reimburse moneys borrowed for the actual net operating deficit of the convention center in the prior fiscal year plus any surtax deficiencies in prior years less any surtax surpluses in~~

~~prior years. As used in this section, (a) "surtax deficiency" means any excess of (i) the convention center net operating deficit over (ii) receipts from the surtax imposed under this subsection to reimburse such deficit; and (b) "surtax surplus" means any excess of (i) receipts from a surtax imposed to reimburse a convention center net operating deficit over (ii) the convention center operating deficit which the surtax is intended to reimburse. The surtax so determined shall be effective, and shall be imposed and collected, beginning October 1 of each year for the succeeding twelve months: PROVIDED, That the surtax shall not exceed forty percent of the tax in effect under subsection (1) of this section in the city of Seattle and in King county outside the city of Seattle. The director of financial management shall determine the amount of the surtax based upon actual receipts from the tax provided for in RCW 67.40.090 during the last complete fiscal year. The surtax imposed on hotels and motels in King county outside the city of Seattle shall be forty percent of the surtax imposed on hotels and motels in the city of Seattle.~~

~~(3) The surcharge under subsection (2) of this section shall be forty percent of the tax in effect under subsection (1) of this section, effective on the day either of the following events occurs, whichever is earlier:~~

~~(a) A temporary or permanent injunction or order becomes effective which prohibits in whole or in part the collection of surtax at the rates specified in subsection (2) of this section; or~~

~~(b) A decision of a court in this state invalidating in whole or in part subsection (2) of this section.~~

~~The proceeds of the special excise tax shall be deposited in the state convention and trade center account~~))

(c) From July 1, 1988, through December 31, 1992, inclusive, the rate shall be six percent in the city of Seattle and two and four-tenths percent in King county outside the city of Seattle.

(d) From January 1, 1993, until the change date, the rate shall be seven percent in the city of Seattle and two and eight-tenths percent in King county outside the city of Seattle.

(e) On and after the change date, the rate shall be six percent in the city of Seattle and two and four-tenths percent in King county outside the city of Seattle.

(f) As used in this section, "change date" means the October 1st next occurring after certification occurs under (g) of this subsection.

(g) On August 1st of 1993 and of each year thereafter until certification occurs under this subsection, the state treasurer shall determine whether seventy-one and forty-three one-hundredths percent of the revenues actually collected and deposited with the state treasurer for the tax imposed under this section during the twelve months ending June 30th of that year, excluding penalties and interest, exceeds the amount actually paid in debt service during the same period for bonds issued under RCW 67.40.030 by

at least two million dollars. If so, the state treasurer shall so certify to the department of revenue.

(3) The proceeds of the special excise tax shall be deposited as provided in this subsection.

(a) Through June 30, 1988, inclusive, all proceeds shall be deposited in the state convention and trade center account.

(b) From July 1, 1988, through December 31, 1992, inclusive, eighty-three and thirty-three one-hundredths percent of the proceeds shall be deposited in the state convention and trade center account. The remainder shall be deposited in the state convention and trade center operations account.

(c) From January 1, 1993, until the change date, eighty-five and seventy-one one-hundredths percent of the proceeds shall be deposited in the state convention and trade center account. The remainder shall be deposited in the state convention and trade center operations account.

(d) On and after the change date, eighty-three and thirty-three one-hundredths percent of the proceeds shall be deposited in the state convention and trade center account. The remainder shall be deposited in the state convention and trade center operations account.

(4) Chapter 82.32 RCW applies to the tax imposed under this section.

NEW SECTION. Sec. 7. The legislature intends that the additional revenue generated by the increase in the special excise tax from five to six percent in the city of Seattle and from two percent to two and four-tenths percent in King county outside the city of Seattle be used for marketing the facilities and services of the convention center, for promoting the locale as a convention and visitor destination, and for related activities. Actual use of these funds shall be determined through biennial appropriation by the legislature.

NEW SECTION. Sec. 8. A new section is added to chapter 67.40 RCW to read as follows:

The state convention and trade center corporation may contract with the Seattle-King county convention and visitors bureau for marketing the convention and trade center facility and services. Any contract with the Seattle-King county convention and visitors bureau shall include, but is not limited to, the following condition: Each dollar in convention and trade center operations account funds provided to the Seattle-King county convention and visitors bureau shall be matched by at least one dollar and ten cents in nonstate funds.

Sec. 9. Section 1, chapter 8, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

(1) The director of financial management, in consultation with the chairpersons of the ways and means committees of the senate and house of representatives, may authorize temporary borrowing from the state treasury

for the purpose of covering cash deficiencies in the state convention and trade center account resulting from project completion costs. Subject to the conditions and limitations provided in this section, lines of credit may be authorized at times and in amounts as the director of financial management determines are advisable to meet current and/or anticipated cash deficiencies. Each authorization shall distinctly specify the maximum amount of cash deficiency which may be incurred and the maximum time period during which the cash deficiency may continue. The total amount of borrowing outstanding at any time shall never exceed the lesser of:

(a) $58,275,000; or

(b) An amount, as determined by the director of financial management from time to time, which is necessary to provide for payment of project completion costs.

(2) Unless the due date under this subsection is extended by statute, all amounts borrowed under the authority of this section shall be repaid to the state treasury by June 30, ((~~1989~~)) 1991, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed. Borrowing may be authorized from any excess balances in the state treasury, except the agricultural permanent fund, the Millersylvania park permanent fund, the state university permanent fund, the normal school permanent fund, the permanent common school fund, and the scientific permanent fund.

(3) As used in this section, "project completion" means:

(a) All remaining development, construction, and administrative costs related to completion of the convention center; and

(b) Costs of the McKay building demolition, Eagles building rehabilitation, and construction of rentable retail space and an operable parking garage.

(4) It is the intent of the legislature that project completion costs be paid ultimately from the following sources:

(a) $29,250,000 to be received by the corporation under an agreement and settlement with Industrial Indemnity Co.;

(b) $1,070,000 to be received by the corporation as a contribution from the city of Seattle;

(c) $20,000,000 ((~~to be received by the corporation under an anticipated agreement with a private developer~~)) from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(d) ((~~$7,955,000 to be provided by a private developer for McKay building demolition, Eagles building rehabilitation, and construction of rentable retail space and an operable parking garage; and~~

~~(e)~~)) $4,765,000 for contingencies and project reserves from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(e) $13,000,000 for conversion of various retail and other space to meeting rooms, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(f) $13,300,000 for expansion at the 900 level of the facility, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090;

(g) $10,400,000 for purchase of the land and building known as the McKay Parcel, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090; and

(h) $300,000 for Eagles building exterior cleanup and repair, from additional general obligation bonds to be repaid from the special excise tax under RCW 67.40.090.

(5) The borrowing authority provided in this section is in addition to the authority to borrow from the general fund to meet the bond retirement and interest requirements set forth in RCW 67.40.060. To the extent the specific conditions and limitations provided in this section conflict with the general conditions and limitations provided for temporary cash deficiencies in RCW 43.88.260 (section 7, chapter ((~~... (SSB 5606)~~)) 502, Laws of 1987), the specific conditions and limitations in this section shall govern.

Sec. 10. Section 9, chapter 8, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

There is appropriated to the state convention and trade center corporation from the state convention and trade center account, for the fiscal period beginning on the effective date of this section and ending June 30, 1989, the following amounts:

(1) $51,618,000 for development, construction, and administrative costs of completion; ((~~and~~))

(2) ((~~$12,720,000 for McKay building demolition, Eagles building rehabilitation, construction of rentable retail space and an operable parking garage, and~~)) $4,765,000 for project reserves and contingency funds;

(3) $13,000,000 for conversion of various retail and other space to meeting rooms;

(4) $13,300,000 for expansion at the 900 level of the facility;

(5) $10,400,000 for purchase of the land and building known as the McKay Parcel; and

(6) $300,000 for Eagles building exterior cleanup and repair.

NEW SECTION. Sec. 11. A public facilities district may be created in any county with three hundred thousand or more population that is located more than one hundred miles from any county in which the state has constructed and owns a convention center.

A public facilities district shall be created upon approval of a proposition to create such a district by a majority of the voters of the proposed district.

A proposition to create a public facilities district shall be submitted to the voters of the proposed district after the county legislative authority in which the proposed district is located and the city council of the largest city within such county have each adopted resolutions calling for such submittal. The proposition shall be placed on the ballot at the next general election held sixty or more days after the adoption of both the city and county resolutions. The resolution calling for providing submittal of the proposition to the voters may be adopted only after the county legislative authority and the city council hold a joint public hearing on the proposition. Notice of the public hearing shall be published in a newspaper of general circulation in the county in which the proposed district is located at least ten days before the public hearing.

A public facilities district shall be coextensive with the boundaries of the county.

A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

NEW SECTION. Sec. 12. A public facilities district shall be governed by a board of directors consisting of five members as follows: (1) Two members appointed by the county legislative authority to serve for four-year staggered terms; (2) two members appointed by the city council to serve for four-year staggered terms; and (3) one person to serve for a four-year term who is selected by the other directors.

One of the initial members appointed by the county legislative authority shall have a term of office of two years and the other initial member appointed by the county legislative authority shall have a term of four years. One of the initial members appointed by the city council shall have a term of two years and the other initial member appointed by the city council shall have a term of four years.

NEW SECTION. Sec. 13. A public facilities district is authorized to acquire, construct, own, and operate convention, sports, entertainment, trade, and related facilities, including parking facilities. A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations. The taxes that are provided for in this chapter only may be imposed for such purposes.

NEW SECTION. Sec. 14. (1) A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging by

a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than forty lodging units. The rate of the tax shall not exceed two percent and the proceeds of the tax shall only be used for the acquisition, design, and construction of convention, sports, entertainment, trade, and related facilities.

(2) A public facilities district may impose an excise tax on the admission charge to any public assembly facility owned and operated by the district member county or city, other than an admission to any activity of any elementary or secondary school, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations. The excise tax shall be imposed at a rate of up to fifty cents on each admission charge, or each ticket for each separate admission. This tax is in addition to all other admission and excise taxes imposed upon admissions. Anyone who receives such an admission charge shall collect and remit the tax to the public facilities district. As used in this subsection, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided; a charge made for rental or use of equipment or facilities for the purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge. It shall also include any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile.

NEW SECTION. Sec. 15. (1) A public facilities district may levy an ad valorem property tax, in excess of the one percent limitation, upon the property within the district for a one-year period to be used for operating or capital purposes whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) A public facilities district may provide for the retirement of voter-approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies, in excess of the one percent limitation, whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

NEW SECTION. Sec. 16. (1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value

of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39-.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in section 13(2) of this act.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and shall be issued and sold in accordance with the provisions of chapter 39.46 RCW.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

NEW SECTION. Sec. 17. A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale.

Sec. 18. Section 19, chapter 2, Laws of 1983, section 11, chapter 130, Laws of 1983, section 16, chapter 303, Laws of 1983, section 10, chapter 315, Laws of 1983 and RCW 84.52.052 are each reenacted and amended to read as follows:

The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. Any county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, solid waste disposal district, public facilities district, flood control zone district, county rail district, service district, public hospital district, road district, rural county library district, island library district, intercounty rural library district, fire protection district, cemetery district, city, town, or cultural arts, stadium, and convention district may levy taxes at a rate in excess of the rate specified in RCW 84-.52.050 through 84.52.056 and RCW 84.52.043, or RCW 84.55.010 through 84.55.050, when authorized so to do by the electors of such county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, solid waste disposal district, public facilities district, flood control zone district, county rail district, service district, public hospital district, road district, rural county library district, island library district, intercounty rural library district, fire protection district, cemetery district, city, town, or cultural arts, stadium, and convention district in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 64 and as thereafter

amended, at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the county legislative authority, or council, board of commissioners, or other governing body of any metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, solid waste disposal district, public facilities district, flood control zone district, county rail district, service district, public hospital district, road district, rural county library district, island library district, intercounty rural library district, fire protection district, cemetery district, city, town, or cultural arts, stadium, and convention district, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no."

NEW SECTION. Sec. 19. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Spokane public facilities district

The appropriation in this section is subject to the following conditions and limitations: The money appropriated in this section is provided solely for the purposes of sections 13 and 16 of House Bill No. 2057. Money appropriated in this section may be spent only if the Spokane public facilities district has been created. If all bonds needed to construct a Spokane trade, sports and convention facility have not been authorized by December 31, 1991, the district shall within thirty days thereafter repay the amount appropriated in this section, together with all interest earnings, to the state building construction account.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,000,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		1,000,000

NEW SECTION. Sec. 20. A new section is added to chapter 67.28 RCW to read as follows:

(1) The legislative body of the city of Ocean Shores is authorized to levy and collect a special excise tax of not to exceed three 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. For the purposes of this tax, 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 seller, as defined in RCW 82.08.010, who is required to collect any tax under this section shall pay over such tax to the city as provided in RCW 67.28.200. The deduction from state taxes under RCW 67.28.190 does not apply to taxes imposed under this section.

NEW SECTION. Sec. 21. A new section is added to chapter 67.28 RCW to read as follows:

(1) The legislative body of a county that qualified under RCW 67.28.180(2)(b) other than a class AA county and the legislative bodies of cities in the qualifying county are each authorized to levy and collect a special excise tax of 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. For the purposes of this tax, 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) No city may impose the special excise tax authorized in subsection (1) of this section during the time the city is imposing the tax under RCW 67.28.180, and no county may impose the special excise tax authorized in subsection (1) of this section until such time as those cities within the county containing at least one-half of the total incorporated population have imposed the tax.

(3) Any county ordinance or resolution adopted under this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed under this section upon the same taxable event.

(4) Any seller, as defined in RCW 82.08.010, who is required to collect any tax under this section shall pay over such tax to the county or city as provided in RCW 67.28.200. The deduction from state taxes under RCW 67.28.190 does not apply to taxes imposed under this section.

*NEW SECTION. Sec. 22. A new section is added to chapter 67.28 RCW to read as follows:

(1) The legislative body of Pierce and Thurston counties are authorized to levy and collect a special excise tax not to exceed three 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. For the purposes of this tax, 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) The tax authorized in subsection (1) of this section is in addition to any other tax authorized by law.

(3) Any seller, as defined in RCW 82.08.010, who is required to collect any tax under this section shall pay over such tax to the county as provided in RCW 67.28.200. The deduction from state taxes under RCW 67.28.190 does not apply to taxes imposed under this section.

(4) All taxes levied and collected under this section shall be credited to a special fund in the treasury of the county. Such taxes shall be levied only for the purpose of paying all or any part of the cost of the siting, acquisition, construction, operation, and maintenance of an indoor aquatic facility in Pierce county and an Olympic academy facility in Thurston county, and may be used for and pledged to the payment of bonds, leases, or other obligations issued or incurred for such purposes.

(5) Taxes levied and collected under this act shall not be used for a zero grade beach or other components of a wave pool or water slide constructed or acquired as a part of an indoor aquatic swimming facility in Pierce County.

***Sec. 22 was partially vetoed, see message at end of chapter.**

Sec. 23. Section 13, chapter 236, Laws of 1967 as last amended by section 3, chapter 483, Laws of 1987 and RCW 67.28.200 are each amended to read as follows:

The legislative body of any county or city may establish reasonable exemptions and may adopt such reasonable rules and regulations as may be necessary for the levy and collection of the taxes authorized by RCW 67-.28.180 ((~~and~~)), 67.28.182, and sections 20 through 22 of this 1988 act. The department of revenue shall perform the collection of such taxes on behalf of such county or city at no cost to such county or city.

Sec. 24. Section 14, chapter 236, Laws of 1967 as last amended by section 1, chapter 308, Laws of 1986 and RCW 67.28.210 are each amended to read as follows:

All taxes levied and collected under RCW 67.28.180, and sections 20 through 21 of this 1988 act 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 June 11, 1986: PROVIDED FURTHER, That any city or county may use the proceeds of such taxes for the refurbishing and operation of a steam railway for tourism promotion purposes.

Sec. 25. Section 10, chapter 34, Laws of 1982 and RCW 67.40.100 are each amended to read as follows:

(1) Except as provided in chapters 67.28 and 82.14 RCW and subsection (2) of this section, after January 1, 1983, no city, town, or county in which the tax under RCW 67.40.090 is imposed may impose a license fee or tax on the act or privilege of engaging in business to furnish lodging by a hotel, rooming house, tourist court, motel, trailer camp, or similar facilities in excess of the rate imposed upon other persons engaged in the business of making sales at retail as that term is defined in chapter 82.04 RCW.

(2) A city incorporated before January 1, 1982, with a population over sixty thousand located in a county with a population over one million, other than the city of Seattle, may impose a special excise tax under the following conditions:

(a) The proceeds of the tax must be used solely for the acquisition, design, and construction of convention and trade facilities and may be used for and pledged to the payment of bonds, leases, or other obligations issued or incurred for such purposes.

(b) The legislative body of the city, before imposing the tax, must authorize a complete study and investigation of the desirability and economic feasibility of the proposed convention and trade facilities.

(c) The rate of the tax shall not exceed three percent.

(d) The tax shall be imposed on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than sixty lodging units.

NEW SECTION. Sec. 26. Sections 11 through 17 of this act shall constitute a new chapter in Title 36 RCW.

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 House March 12, 1988.
Passed the Senate March 11, 1988.
Approved by the Governor March 23, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 23, 1988.

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

"I am returning herewith, without my approval as to section 22(5), Engrossed House Bill No. 2057 entitled:

"AN ACT Relating to public facilities."

With the exception of section 22(5), I fully endorse House Bill No. 2057. The principal objectives of sections 1 through 10 of this bill (originally an executive request) relate to the Washington State Convention and Trade Center now under construction in Seattle. Substantive changes have been enacted to current law modifying its provisions on facility design, state bond financing and the state-imposed hotel tax supporting the construction and operation of the Center. These changes are clearly in the best interest of the state, and credit must be given to the Joint Legislative Committee which recommended their adoption after careful study.

Sections 11 through 19 of this bill provide for the creation of a public facilities taxing district encompassing Spokane County for the purpose of siting, constructing and financing public assembly facilities that will meet the needs of the local community. This is a unique and resourceful approach in which the state is providing a significant new local tool to help a community to meet its needs. I fully support this approach where appropriate.

Similarly, sections 20, 21, 24 and 25 of the bill authorize certain communities to levy a local option hotel tax to fund tourism-related public facilities, and to pledge revenues from the tax to retire financial obligations incurred to fund such public facilities. I also support these provisions.

A third part of the bill, section 22, is another local option taxing authority provided to Pierce County expressly for the purpose of constructing and operating an indoor aquatic facility, and to Thurston County solely for the purpose of constructing and operating an Olympic academy facility. These are both worthwhile projects.

However, section 22(5) would restrict Pierce County from including specific recreation-scale aquatic features in its proposed competition pool facility. This sets an inappropriate state restriction on the ability of Pierce County to responsibly plan, construct, finance and operate the aquatic facility that is expressly authorized in the other subsections of section 22. Proponents of this restriction claim the proposed public aquatic facility will have a potentially negative impact on a commercial aquatic attraction operating in the area. Opponents of this restriction point out that the modest aquatic recreation features being planned as part of the project are necessary for attracting the level of community patronage required for a fiscally responsible operation and pose no competitive threat to commercial enterprises. Further, backers of the Pierce County pool have stated that there are no plans for developing any additional commercial-scale features for the proposed aquatic complex.

The issue here is one of possible unfair public sector competition with private sector activities, and it has been debated widely in the Pierce County community and before the Legislature. From this debate, and my own review of this issue, I have concluded this restriction is inappropriate, and I am vetoing subsection 5 for the following reasons:

1. Assurances on the record from the Park District and the City of Tacoma state that the proposed project will not include commercial-scale aquatic attractions which would compete with the private sector.

2. Retaining this provision would unduly hamper Pierce County's ability to develop a facility that is versatile enough to accommodate high level competitive aquatic sports, as well as general community use.

3. Subsection 5 is inconsistent with the purpose of the local option approach, which provides for the discussion and resolution of this and other issues connected with the proposed project at the local community level rather than through pre-emption by state law.

4. Subsection 5 is also overly broad, in that its language refers to all taxes levied and collected under this entire act rather than just section 22.

Accordingly, with the exception of section 22(5), House Bill No. 2057 is approved."

CHAPTER 2

[Engrossed Substitute Senate Bill No. 6763]
SUPPLEMENTAL CAPITAL BUDGET

AN ACT Relating to capital projects; authorizing certain projects; amending RCW 46-.08.172; amending section 2, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 106, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 107, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 151, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 155, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 157, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 201, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 202, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 216, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 236, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 316, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 322, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 407, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 408, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 409, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 503, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 516, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 529, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 530, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 560, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 566, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 577, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 702, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 704, chapter 6 Laws of 1987 1st ex. sess. (uncodified); amending section 705, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 706, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 712, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 727, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 875, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 879, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 880, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 882, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 893, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 890, chapter 6, Laws of 1987 1st ex. sess. (uncodified); amending section 895, chapter 6, Laws of 1987 1st ex. sess. (uncodified); adding new sections to chapter 6, Laws of 1987 1st ex. sess. (uncodified); creating new sections; repealing section 317, chapter 6, Laws of 1987 1st ex. sess. (uncodified); repealing section 410, chapter 6, Laws of 1987 1st ex. sess. (uncodified); repealing section 716, chapter 6, Laws of

1987 1st ex. sess. (uncodified); repealing section 871, chapter 6, Laws of 1987 1st ex. sess. (uncodified); making appropriations; and declaring an emergency.

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

Sec. 1. Section 2, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

(1) As used in this act, the following phrases have the following meanings:

"Common School Constr Fund" means Common School Construction Fund;

"Cap Bldg Constr Acct" means Capitol Building Construction Account;

"St Bldg Constr Acct" means State Building Construction Account;

"St Fac Renew Acct" means State Facilities Renewal Account;

"Fish Cap Proj Acct" means Fisheries Capital Projects Account;

"ORA" means Outdoor Recreation Account;

"Sal Enhmt Constr Acct" means Salmon Enhancement Construction Account;

"For Dev Acct" means Forest Development Account;

"Res Mgmt Cost Acct" means Resource Management Cost Account;

"LIRA, DSHS Fac" means Local Improvements Revolving Account——Department of Social and Health Services Facilities;

"DSHS Constr Acct" means State Social and Health Services Construction Account;

"CEP & RI Acct" means Charitable, Educational, Penal, and Reformatory Institutions Account;

"Fire Trng Constr Acct" means Fire Training Construction Account;

"WSU Bldg Acct" means Washington State University Building Account;

"St H Ed Constr Acct" means State Higher Education Construction Account;

"EWU Cap Proj Acct" means Eastern Washington University Capital Projects Account;

"TESC Cap Proj Acct" means The Evergreen State College Capital Projects Account;

"Com Col Cap Impvmt Acct" means Community College Capital Improvement Account;

"Com Col Cap Proj Acct" means Community College Capital Projects Account;

"Com Col Cap Constr Acct" means 1975 Community College Capital Construction Account;

"CWU Cap Proj Acct" means Central Washington University Capital Projects Account;

"UW Bldg Acct" means University of Washington Building Account;

"St Bldg Auth Constr Acct" means State Building Authority Construction Account;

"WWU Cap Proj Acct" means Western Washington University Capital Projects Account;

"Cap Purch & Dev Acct" means Capitol Purchase and Development Account;

"Hndcp Fac Constr Acct" means Handicapped Facilities Construction Account;

"LIRA, Waste Disp Fac" means State and Local Improvement Revolving Account——Waste Disposal Facilities;

"State Emerg Water Proj Rev" means Emergency Water Project Revolving Account——State;

"LIRA, Waste Fac 1980" means State and Local Improvement Revolving Account——Waste Disposal Facilities 1980;

"LIRA, Water Sup Fac" means State and Local Improvement Revolving Account——Water Supply Facilities;

"LIRA" means State and Local Improvement Revolving Account;

"LIRA, Public Rec Fac" means State and Local Improvement Revolving Account——Public Recreation Facilities;

"PNW Fest Fac Constr Acct" means Pacific Northwest Festival Facility Construction Account;

"Cultural Fac Constr Acct" means Cultural Facilities Construction Account;

"H Ed Constr Acct" means Higher Education Construction Account 1979;

"H Ed Reimb S/T Bonds Acct" means Higher Education Reimbursable Short-Term Bonds Account;

"St Patrol Hiwy Acct" means State Patrol Highway Account;

"WSP Services Acct" means State Patrol Services Account;

"Unemp Comp Admin Acct" means Unemployment Compensation Administration Account;

"Game Spec Wildlife Acct" means Game Special Wildlife Account;

"Local Jail Imp & Constr Acct" means Local Jail Improvement and Construction Account.

"Cap Campus Ofc Dev Acct" means Capitol Campus Office Development Account.

The words "capital improvements" or "capital projects" used in this act mean acquisition of sites, easements, rights of way, or improvements thereon and appurtenances thereto, construction and initial equipment, reconstruction, demolition, or major alterations of new or presently owned capital assets. For purposes of this act, "provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely

for a specified purpose which is unnecessary to fulfill the specified purpose shall revert.

"Revert" or "lapse" means the amount shall return to an unappropriated status.

(2) Letters and numbers in parenthesis following each project description are the unique project identifiers used throughout a project's duration to identify it.

PART 1
GENERAL GOVERNMENT

Sec. 101. Section 106, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Tacoma Union Station building stabilization and planning

The appropriation in this section is subject to the following conditions and limitations:

(1) $1,000,000 of this appropriation is provided solely to prevent further deterioration of the Tacoma Union Station building. This may include, but is not limited to, providing a fire detection system, removing safety hazards, and programming necessary to implement these works.

(2) A maximum of $500,000 may be used for planning regarding future use of the Tacoma Union Station property to promote state economic development.

(3) The money in subsections (1) and (2) of this section is provided contingent upon a written legal agreement between the city of Tacoma and the state that (a) requires state approval of future uses and disposition of the Tacoma Union Station property and (b) gives the state the right of first refusal to assume the city of Tacoma's option to purchase the Tacoma Union Station property currently owned by the Burlington Northern company.

(4) $500,000 of this appropriation is provided solely for architectural plans and construction specifications for a state museum on the Union Station property.

(5) $400,000 of this appropriation is provided solely for purchase of the Union Station property. The appropriation in this subsection is contingent on a like amount being provided for this purpose from nonstate sources.

(6) $2,000,000 of this appropriation is provided solely for restoration of the rotunda of the Union Station building. The appropriation in this subsection is contingent on the city's agreement to exercise its option to purchase Union Station and the city's agreement to grant to the state the right of first refusal to assume the city's option to purchase the property should the city decide to withdraw from the project.

(7) The money in subsections (4), (5), and (6) of this section is provided contingent upon a written legal agreement between the city of Tacoma and the state that:

(a) The city obtain the state's approval for all decisions with respect to:

(i) Determining final ownership of Union Station itself;

(ii) Identifying appropriate uses for the site; and

(iii) Selecting consultants retained by the city under its contract with the state;

(b) The city consult with the state and, unless prohibited from doing so by terms of the United States general services administration lease, follow the state's recommendations in other significant decisions concerning the development of the Union Station properties, including but not limited to:

(i) Planning the development and redevelopment of the site to accommodate appropriate uses;

(ii) Obtaining financing for acquisition, development, or redevelopment of the property; and

(iii) Acquiring, leasing, subleasing, and/or reselling the property;

(c) If the city finds that it is not possible to follow the state's recommendations, the city will advise the state and allow the state a reasonable opportunity to comment; and

(d) The city shall obtain a public access easement from the United States general services administration or any other owner or lessee that will allow public access through the rotunda to any future state facility.

	Reappropriation	Appropriation
St Bldg Constr Acct		((~~1,500,000~~)) 4,400,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~1,500,000~~)) 4,400,000

Sec. 102. Section 107, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Capitalize development loan fund (88-2-002)

The appropriation in this section is subject to the following conditions and limitations:

(1) $250,000 of the appropriation in this section is provided solely for entitlement communities, which shall not require the commitment of additional federal funds by the entitlement community.

(2) Up to one million five hundred thousand dollars may be used for grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants, which shall not require the commitment of additional federal funds by the entitlement community.

(3) Additional grants may be provided to entitlement communities subject to the matching requirement in RCW 43.168.100.

(4) To the extent permitted under federal law, the development loan committee shall require local entitlement communities to transfer repayments of principal and interest to the Washington state development loan fund.

	Reappropriation	Appropriation
St Bldg Constr Acct		((~~3,070,000~~)) 4,070,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~3,070,000~~)) 4,070,000

NEW SECTION. Sec. 103. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Columbia county courthouse

The appropriation in this section is subject to the following conditions and limitations:

(1) $400,000 is appropriated to repair and restore the Columbia county courthouse.

(2) The appropriation in this section shall be matched by $700,000 in private donations and local funds from Columbia county.

	Reappropriation	Appropriation
St Bldg Constr Acct		400,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	400,000	400,000

NEW SECTION. Sec. 104. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

East capitol campus development

(1) The capitol campus design advisory committee is established as an advisory group to the capitol committee to review plans of design and landscaping of state capitol facilities and grounds, and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in the design and maintenance of the state capitol campus.

(2) The committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

(a) Two architects;

(b) A landscape architect; and

(c) An urban planner.

(3) The committee shall also consist of two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The committee shall review plans affecting the state capitol campus as they are developed by or for the capitol committee. The committee's review shall include:

(a) The design build concept of contracting for public works projects;

(b) The design, siting, and grouping of state facilities on the capitol campus relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns and other factors;

(c) The relationship of the overall state capitol plan to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(d) The overall landscaping plans, including planting proposals, placement of outdoor sculpture, and access to the capitol campus and buildings.

(5) The members of the committee shall be reimbursed accordingly for travel expenses as provided in chapters 43.03 and 44.04 RCW.

Sec. 105. Section 151, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative Building painting and renovation

The appropriation in this section is subject to the following conditions and limitations: The project shall include renovation and expansion of the ladies' restroom facility on the third floor of the Senate wing of the Legislative Building.

Reappropriation Appropriation

Cap Bldg Constr Acct		((~~1,365,000~~)) 2,465,000
Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~1,365,000~~)) 2,465,000

Sec. 106. Section 155, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

Tacoma Armory rehabilitation (86-1-001)

	Reappropriation	Appropriation
General Fund, Federal		300,000
St Bldg Constr Acct	((~~1,500,000~~)) 1,524,254	207,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
((~~620,000~~)) 595,746	4,536,000	7,163,000

Sec. 107. Section 157, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

Minor works (86-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		500,000
St Fac Renew Acct	34,747	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
((~~1,764,000~~)) 1,729,253	1,000,000	3,264,000

NEW SECTION. Sec. 108. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE MILITARY DEPARTMENT

Facility contingency (CR-86-2-006)

	Reappropriation	Appropriation
St Fac Renew Acct	64,812	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
1,010,188	1,210,000	2,285,000

PART 2

HUMAN RESOURCES

Sec. 201. Section 201, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Referendum 37 projects (79-3-R01)

Approve, construct, renovate, and equip facilities for the care, training, and rehabilitation of persons with physical or mental handicaps, involving ((~~eight~~)) ten projects as recommended by the department, totaling ((~~$353,267~~)) $465,547. 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, 1987, and approved by March 31, 1988, with the exception of $112,280 for two Thurston county projects, which require final application submittal by December 31, 1988, and approval by March 31, 1989.

	Reappropriation	Appropriation
Hndcp Fac Constr Acct	2,389,000	
LIRA, DSHS Fac		47,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
22,580,000		25,016,000

Sec. 202. Section 202, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Referendum 29 projects (79-3-R02)

Provides expenditure authority for projects already in progress and provides new funds from interest earnings to complete a community multipurpose center for the handicapped in Ferry county. A maximum of

$40,000 of the funds provided in this section may be spent for renovation or other costs necessary to establish a self-supporting day care center for children of state employees at Eastern State Hospital. A maximum of $170,000 of the funds provided in this section is provided solely for participation by the department of social and health services in a project to construct a multipurpose child care center at the Everett community college.

	Reappropriation	Appropriation
LIRA, DSHS Fac	874,000	((~~120,000~~)) 330,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
426,000		((~~1,420,000~~)) 1,630,000

Sec. 203. Section 216, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Emergency, unanticipated, and small works contingency (86-1-010)

	Reappropriation	Appropriation
St Fac Renew Acct	525,000	
St Bldg Constr Acct		294,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
452,000		((~~977,000~~)) 1,271,000

Sec. 204. Section 236, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Referendum 27 and Referendum 38

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

(1) Up to sixteen full time equivalent staff per year ((~~in this act~~)) may be funded ((~~through~~)) from the reappropriation of Referendum 38 for the purpose of reviewing local water improvement accounts.

(2) The appropriation is provided solely for drought related municipal and industrial water supply projects.

	Reappropriation	Appropriation
LIRA, Water Supp Fac	41,934,000	3,200,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~41,161,000~~)) 44,361,000

NEW SECTION. Sec. 205. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Capital repair minor works: Utilities and facilities (88-1-001)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,058,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	8,668,000	9,726,000

NEW SECTION. Sec. 206. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Capital repair minor works: Hazardous materials abatement (88-1-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		977,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	800,000	1,777,000

PART 3
HUMAN SERVICES——OTHER

Sec. 301. Section 316, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

State-wide: Transformers (PCB) code compliance (86-1-012)

	Reappropriation	Appropriation
((~~St Fac Renew Acct~~))	((~~100,000~~))	
CEP & RI Acct	100,000	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
100,000		200,000

Sec. 302. Section 322, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

State-wide: Emergency repair projects (86-1-010)

	Reappropriation	Appropriation
((~~St Bldg Constr Acct~~))	((~~70,000~~))	
St Fac Renew Acct	70,000	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
330,000		400,000

NEW SECTION. Sec. 303. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Tacoma work training release center: Construction of a Tacoma work release facility (88-2-004)

	Reappropriation	Appropriation
St Bldg Constr Acct		4,462,000

Project Costs Through	Estimated Costs 7/1/89 and	Estimated Total Costs

6/30/87	Thereafter	
		4,462,000

NEW SECTION. Sec. 304. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Eastern Washington prerelease: Site preparation costs for Eastern Washington prerelease facility (88-2-005)

	Reappropriation	Appropriation
St Bldg Constr Acct		1,011,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		1,011,000

NEW SECTION. Sec. 305. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Purdy corrections center for women: Wastewater treatment, life safety projects, and master plan preparation (88-2-006)

	Reappropriation	Appropriation
St Bldg Constr Acct		615,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		615,000

NEW SECTION. Sec. 306. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

McNeil Island corrections center: Site master plan and environmental impact statement (88-2-003)

	Reappropriation	Appropriation
St Bldg Constr Acct		621,000

Project Costs Through	Estimated Costs 7/1/89 and	Estimated Total Costs

6/30/87	Thereafter	
		621,000

PART 4
K–12 EDUCATION

Sec. 401. Section 407, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

Artwork grants: 1985–87 (86–4–008)

	Reappropriation	Appropriation
Common School Constr Fund	((~~215,000~~)) 294,000	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
((~~230,000~~)) 151,000		445,000

Sec. 402. Section 408, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

Public school building construction: 1987 (88–2–001)

The appropriation in this section is subject to the following conditions and limitations:

(1) After the effective date of this 1988 section, authorization of projects to receive state matching assistance shall include only projects that meet requirements and timelines for authorization of projects to open bids established as of March 1, 1988, in state board of education rules, of which a maximum of $77,000,000 may be for new construction due to enrollment growth or condemnation.

(2) A maximum of $955,000 of the appropriation in this section may be spent for state administration of school construction funding.

	Reappropriation	Appropriation
Common School Constr Fund		((~~134,337,000~~)) 208,262,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs

((~~134,337,000~~))
208,262,000

NEW SECTION. Sec. 403. A new section is added to chapter 6, Laws of 1987 1st ex. sess. to read as follows:

FOR THE STATE BOARD OF EDUCATION

Darrington school district: New elementary-middle school

The appropriation in this section is subject to the following conditions and limitations:

(1) This project shall comply with all state board of education rules and procedures for receipt of state assistance for school construction, with the following exceptions:

(a) The local matching requirement shall be ten percent of the approved project cost as determined by state board of education rules; and

(b) The Darrington school district may be authorized to open bids on the project prior to the final prioritization and authorization of other eligible school district projects and as soon as all other applicable requirements for eligibility for state assistance are met.

(2) If the Darrington school district does not secure local matching funds for the project prior to March 1, 1989, the appropriation in this section shall lapse.

	Reappropriation	Appropriation
Common School Constr Fund		3,405,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		3,405,000

Sec. 404. Section 409, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

Common school disbursement limit

A maximum of ((~~$152,230,000~~)) $200,650,000 of the appropriations and reappropriations in sections ((~~301 through 308 of this act~~)) 401 through 408 of chapter 6, Laws of 1987 1st ex. sess., as amended, and section 403 of this 1988 act, may be disbursed during the 1987-89 biennium.

NEW SECTION. Sec. 405. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

Roof repairs: Irwin educational building (88-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		140,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		140,000

*NEW SECTION. Sec. 406. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Capital planning and transition purposes: Nine mile falls school district.

	Reappropriation	Appropriation
St Bldg Constr Acct		126,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		126,000

*Sec. 406 was vetoed, see message at end of chapter.

PART 5

COLLEGES AND UNIVERSITIES

Sec. 501. Section 503, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Life safety: Code compliance (86-1-002)

	Reappropriation	Appropriation
St H Ed Constr Acct	500,000	
St Bldg Constr Acct		3,000,000
UW Bldg Acct		1,000,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
500,000	3,000,000	((~~7,000,000~~)) 8,000,000

Sec. 502. Section 516, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Health science building expansion (H Wing) (86-1-021)

	Reappropriation	Appropriation
H Ed Reimb S/T Bonds Acct	135,000	
St Bldg Constr Acct		21,135,000
UW Bldg Acct		3,500,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
41,000		((~~21,311,000~~)) 24,811,000

NEW SECTION. Sec. 503. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Science and engineering facilities: Preplanning (88-2-044)

	Reappropriation	Appropriation
UW Bldg Acct		1,000,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		1,000,000

NEW SECTION. Sec. 504. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Power plant boiler coal retrofit (88-4-024)

	Reappropriation	Appropriation
UW Bldg Acct		2,300,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		2,300,000

NEW SECTION. Sec. 505. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Power plant stack replacement (88-1-023)

	Reappropriation	Appropriation
UW Bldg Acct		1,500,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		1,500,000

Sec. 506. Section 529, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Minor capital improvements (88-1-001)

	Reappropriation	Appropriation
WSU Bldg Acct		((~~4,800,000~~)) 4,723,100

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	9,260,000	((~~14,060,000~~)) 13,983,100

Sec. 507. Section 530, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Minor capital renewal (88-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct		((~~6,344,000~~)) 5,701,900

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	10,000,000	((~~16,344,000~~)) 15,701,900

NEW SECTION. Sec. 508. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Fine arts building: Mechanical system improvements (88-1-012)

	Reappropriation	Appropriation
WSU Bldg Acct		3,119,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		3,119,000

NEW SECTION. Sec. 509. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

PCB transformer removal and replacement (88-1-014)

	Reappropriation	Appropriation
St Bldg Constr Acct		642,100
WSU Bldg Acct		76,900

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		719,000

NEW SECTION. Sec. 510. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Land acquisition: Spokane technical institute

	Reappropriation	Appropriation
		800,000
St Bldg Constr Acct		

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		800,000

Sec. 511. Section 536, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Todd Hall addition and renovation (88-1-011)

	Reappropriation	Appropriation

((~~H Ed Constr Acct~~))	5,332,000
St Bldg Constr Acct	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	6,952,000	12,284,000

Sec. 512. Section 560, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

Lab annex remodel (86-1-099)

	Reappropriation	Appropriation
St Bldg Constr Acct		((~~1,008,000~~)) 1,222,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
75,000		((~~1,083,000~~)) 1,297,000

Sec. 513. Section 566, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

Minor works (88-2-008)

	Reappropriation	Appropriation
St Bldg Constr Acct		((~~428,000~~)) 214,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	273,000	((~~701,000~~)) 487,000

Sec. 514. Section 577, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE WESTERN WASHINGTON UNIVERSITY

Minor works request: Small repairs and improvements: PROVIDED, That the $900,000 state building construction account appropriation shall

be used solely for asbestos removal (87-2-004)

	Reappropriation	Appropriation
St H Ed Constr Acct	175,000	
St Bldg Constr Acct		900,000
WWU Cap Proj Acct	910,000	4,697,000
St Fac Renew Acct	160,000	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
7,292,000	3,545,000	((~~16,779,000~~)) 17,679,000

PART 6
COMMUNITY COLLEGES

NEW SECTION. Sec. 601. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

Washington State University education center: Clark College

The appropriation in this section is subject to the following conditions and limitations: Clark College shall not charge Washington State University facility rental fees for the use of the education center.

	Reappropriation	Appropriation
St Bldg Constr Acct		1,800,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		1,800,000

NEW SECTION. Sec. 602. FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

Multipurpose child care center: Everett

The appropriation in this section is subject to the following conditions and limitations: The funds in this section are provided solely for a model multipurpose child care center for one hundred forty children on or near the Everett community college campus, in accordance with the findings and recommendations of the department of general administration feasibility study for state employee child care dated October 1986. The center is intended to serve a broad base of parents, including students, college and state

employees, and clients of state agencies, including but not limited to participants in the department of social and health services family independence program. Additionally, the center may be used as a training facility for students in early childhood education or other appropriate disciplines, and for child care providers. Planning and construction of this facility shall be coordinated with the department of social and health services and local private or government entities.

	Reappropriation	Appropriation
St Bldg Constr Acct		600,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		770,000

PART 7
NATURAL RESOURCES

Sec. 701. Section 702, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Waste disposal facilities: 1980 (88-2-001)

The appropriation in this section is subject to the following conditions and limitations: A maximum of $1,500,000 of the appropriation may be expended for planning assistance to any ground water management areas created pursuant to chapter 453, Laws of 1985. Such assistance shall be allocated in a manner consistent with chapter 3, Laws of 1986.

	Reappropriation	Appropriation
LIRA, Waste Fac 1980	235,300,000	((~~3,330,900~~)) <u>2,850,900</u>

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~239,305,900~~)) <u>238,825,900</u>

Sec. 702. Section 704, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Emergency water project revolving account (88–2–004)

	Reappropriation	Appropriation
State Emerg Water Proj Rev	4,000,000	((~~225,000~~)) 188,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~4,225,000~~)) 4,188,000

The appropriations in this section are provided solely for the planning, acquisition, construction, and improvement of water supply facilities and other appropriate measures to alleviate emergency drought conditions which may arise in 1987 through 1989, as provided in Second Substitute Senate Bill No. 6513.

Sec. 703. Section 705, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Water supply facilities (88–2–005)

The appropriation in this section is subject to the following conditions and limitations:

(1) A maximum of $500,000 of this reappropriation may be expended to complete the Lake Osoyoos international water control structure authorized by chapter 76, Laws of 1982. This amount is in addition to the $3,000,000 previously appropriated for this purpose.

(2) Funds previously appropriated for the East Selah reregulating reservoir shall be reallocated for purposes of early implementation of the Yakima river basin water enhancement project in order to financially assist irrigators in making up 80,000 acre feet of water per year lost because of a 1980 court decision.

	Reappropriation	Appropriation
LIRA, Water Sup Fac	30,500,000	((~~928,000~~)) 888,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~31,428,000~~)) 31,388,000

Sec. 704. Section 706, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

Water quality projects

	Reappropriation	Appropriation
State Water Quality Acct		((~~1,940,000~~)) 1,862,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	4,365,000	((~~6,305,000~~)) 6,227,000

Sec. 705. Section 712, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

State-wide water supply facilities (86-1-002)

	Reappropriation	Appropriation
St Bldg Constr Acct	((~~298,000~~)) 431,000	
ORA, State	3,000	
ORA, Federal	3,000	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
((~~330,000~~)) 197,000		634,000

Sec. 706. Section 727, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Green River Gorge: Staged acquisition (87-3-010)

	Reappropriation	Appropriation
St Bldg Constr Acct	115,000	551,000
ORA, State	((~~39,000~~)) 100,000	
ORA, Federal	100,000	

Project	Estimated	Estimated

Costs Through 6/30/87	Costs 7/1/89 and Thereafter	Total Costs
((~~246,000~~)) 185,000	2,000,000	3,051,000

NEW SECTION. Sec. 707. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Yakima greenway: Acquisition (CI-81-3-098)

	Reappropriation	Appropriation
ORA, State	94,000	

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
56,000		150,000

NEW SECTION. Sec. 708. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Worden: Acquisition of adjacent property, health and safety improvements

	Reappropriation	Appropriation
St Bldg Constr Acct		750,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		750,000

NEW SECTION. Sec. 709. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Larrabee: Acquisition of Clayton beach, health and safety improvements

	Reappropriation	Appropriation
St Bldg Constr Acct		1,600,000

Project Costs	Estimated Costs	Estimated Total

Through 6/30/87	7/1/89 and Thereafter	Costs
		1,600,000

NEW SECTION. Sec. 710. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Casey: Acquisition of Keystone spit properties

	Reappropriation	Appropriation
St Bldg Constr Acct		415,000
ORA, State		85,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		500,000

NEW SECTION. Sec. 711. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Hood Canal property acquisition for boat ramp and parking

	Reappropriation	Appropriation
St Bldg Constr Acct		50,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		50,000

NEW SECTION. Sec. 712. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Belfair: Acquisition of adjacent property

	Reappropriation	Appropriation
St Bldg Constr Acct		50,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		50,000

NEW SECTION. Sec. 713. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF WILDLIFE

Aberdeen lake fish hatchery expansion

	Reappropriation	Appropriation
Special Wildlife Acct		819,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		819,000

NEW SECTION. Sec. 714. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

Washington state agricultural complex project at Yakima.

The appropriation in this section is subject to the following conditions and limitations: Expenditures made under this appropriation shall equal fifty percent of the total project cost consisting of design, construction, remodeling, and rehabilitation of buildings on the property upon which the Washington state agricultural trade complex project is located, and shall not exceed $2,000,000. The remaining fifty percent project cost shall be funded by local match consisting of cash, equipment, labor and the value of land and buildings upon which the Washington state agricultural trade complex is located.

	Reappropriation	Appropriation
St Bldg Constr Acct		2,000,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		2,000,000

PART 8

NATURAL RESOURCES——CONTINUED

Sec. 801. Section 875, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Area office space increase projects (88–2–030)

	Reappropriation	Appropriation
For Dev Acct		((~~151,000~~)) 104,000
Res Mgmt Cost Acct		((~~269,000~~)) 316,000
St Bldg Constr Acct		12,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~420,000~~)) 432,000

Sec. 802. Section 879, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Seed orchard irrigation (89–2–006)

	Reappropriation	Appropriation
For Dev Acct		((~~59,000~~)) 49,500
Res Mgmt Cost Acct		((~~106,000~~)) 115,500

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		165,000

Sec. 803. Section 880, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Management roads (89–2–008)

	Reappropriation	Appropriation
((~~For Dev Acct~~))		((~~154,000~~))
Res Mgmt Cost Acct		((~~274,000~~)) 428,000

Project Costs Through	Estimated Costs 7/1/89 and	Estimated Total Costs

6/30/87	Thereafter	
	1,700,000	2,433,000

Sec. 804. Section 882, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Real estate improved property maintenance (89-2-010)

	Reappropriation	Appropriation
For Dev Acct		((~~90,000~~)) 25,000
Res Mgmt Cost Acct		((~~160,000~~)) 225,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
	200,000	450,000

Sec. 805. Section 893, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Northeast shop remodeling and addition

	Reappropriation	Appropriation
((~~For Dev Acct~~))		((~~32,000~~))
Res Mgmt Cost Acct		((~~57,000~~)) 89,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		89,000

Sec. 806. Section 890, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Acquisition of fifty-one miles of Milwaukee Railroad right of way in Jefferson and Clallam counties for recreation, transportation, and utility purposes

The appropriation in this section is subject to the following conditions and limitations: Portions of the right of way not needed for recreational purposes may be re-sold for economic development purposes.

	Reappropriation	Appropriation
State Bldg Constr Acct		((~~800,000~~)) 15,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		((~~800,000~~)) 15,000

Sec. 807. Section 895, chapter 6, Laws of 1987 1st ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Northeast headquarters paving

	Reappropriation	Appropriation
((~~For Dev Acct~~))		((~~20,000~~))
Res Mgmt Cost Acct		((~~34,000~~)) 54,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		54,000

NEW SECTION. Sec. 808. A new section is added to chapter 6, Laws of 1987 1st ex. sess. (uncodified) to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Hawks Prairie sewer hookup (88-5-045)

	Reappropriation	Appropriation
Res Mgmt Cost Acct		200,000

Project Costs Through 6/30/87	Estimated Costs 7/1/89 and Thereafter	Estimated Total Costs
		200,000

Part 9
MISCELLANEOUS

Sec. 901. Section 1, chapter 158, Laws of 1963 as last amended by section 59, chapter 57, Laws of 1985 and RCW 46.08.172 are each amended to read as follows:

There is hereby established an account in the state treasury to be known as the "state capitol vehicle parking account". The director of the department of general administration shall establish an equitable and consistent employee parking rental fee for state owned or leased property, effective July 1, 1988. All fees shall take into account the market rate of comparable privately owned rental parking, as determined by the director. All unpledged parking rental income collected by the department of general administration from rental of parking space on the capitol grounds and the east capitol site shall be deposited in the "state capitol vehicle parking account". All earnings of investments of balances in the state capitol vehicle parking account shall be credited to the general fund.

The "state capitol vehicle parking account" shall be used to pay costs incurred in the operation, maintenance, regulation and enforcement of vehicle parking and parking facilities at the state capitol.

NEW SECTION. Sec. 902. The following acts or parts of acts are each repealed:

(1) Section 317, chapter 6, Laws of 1987 1st ex. sess. (uncodified);

(2) Section 410, chapter 6, Laws of 1987 1st ex. sess. (uncodified);

(3) Section 716, chapter 6, Laws of 1987 1st ex. sess. (uncodified); and

(4) Section 871, chapter 6, Laws of 1987 1st ex. sess. (uncodified).

NEW SECTION. Sec. 903. 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, 1988.
Passed the House March 12, 1988.
Approved by the Governor March 26, 1988, with the exception of certain items which were vetoed.
Filed in Office of Secretary of State March 26, 1988.

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

"I am returning herewith, without my approval as to section 406, Engrossed Substitute Senate Bill No. 6763, entitled:

"AN ACT Relating to capital projects."

Section 406, Page 15, Superintendent of Public Instruction

This section provides funds for capital planning and transition purposes for Nine Mile Falls School District. The citizens of the school district have already provided levy money to be used in combination with state matching funds to cover the capital costs for constructing a new school. I have previously indicated my position on this issue, see my partial veto of section 412, page 43 of ReEngrossed Substitute House Bill No. 327, Chapter 6 Laws of Washington, 1987, 1st Special Session. However, in light of this new legislation, I have had the issue reviewed again. The issue has been discussed with the local Education Services District, the Office of the Superintendent of Public Instruction, Nine Mile Falls School District and others. I cannot find sufficient additional justification to cause me to view this policy issue differently and provide this enhanced state funding.

With the exception of section 406, Engrossed Substitute Senate Bill No. 6763 is approved."

PROPOSED CONSTITUTIONAL AMENDMENT ADOPTED AT THE 1988 REGULAR SESSION FOR SUBMISSION TO THE VOTERS AT THE STATE GENERAL ELECTION, NOVEMBER 1988

HOUSE JOINT RESOLUTION NO. 4222

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 1 of the Constitution of the state of Washington to read as follows:

Article VII, section 1. The power of taxation shall never be suspended, surrendered or contracted away. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only. The word "property" as used herein shall mean and include everything, whether tangible or intangible, subject to ownership. All real estate shall constitute one class: PROVIDED, That the legislature may tax mines and mineral resources and lands devoted to reforestation by either a yield tax or an ad valorem tax at such rate as it may fix, or by both. Such property as the legislature may by general laws provide shall be exempt from taxation. Property of the United States and of the state, counties, school districts and other municipal corporations, and credits secured by property actually taxed in this state, not exceeding in value the value of such property, shall be exempt from taxation. The legislature shall have power, by appropriate legislation, to exempt personal property to the amount of three ((~~hundred ($300.00)~~)) thousand ($3,000.00) dollars for each head of a family liable to assessment and taxation under the provisions of the laws of this state of which the individual is the actual bona fide owner.

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 February 15, 1988.
Passed the Senate March 1, 1988.
Filed in Office of Secretary of State March 7, 1988.

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 1988 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 1988

HOUSE JOINT RESOLUTION NO. 4223

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VIII, section 10 of the Constitution of the state of Washington to read as follows:

Article VIII, section 10. Notwithstanding the provisions of section 7 of this Article, ((~~until January 1, 1990~~)) any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of energy may, as authorized by the legislature, use public moneys or credit derived from operating revenues from the sale of energy to assist the owners of ((~~residential~~)) structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of energy in such structures or equipment. Except as provided in section 7 of this Article, an appropriate charge back shall be made for such extension of public moneys or credit and the same shall be a lien against the ((~~residential~~)) structure benefited or a security interest in the equipment benefited. Any financing authorized by this article shall only be used for conservation purposes in existing structures and shall not be used for any purpose which results in a conversion from one energy source to another. ((~~Except as to contracts entered into prior thereto, this amendment to the state Constitution shall be null and void as of January 1, 1990 and shall have no further force or effect after that date.~~))

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 9, 1988.
Passed the Senate March 5, 1988.
Filed in Office of Secretary of State March 14, 1988.

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 1988 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 1988

SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4231

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 VI, section 3 and an amendment to Article XIII, section 1 of the state Constitution to read as follows:

Article VI, section 3. All ((~~idiots, insane persons, and~~)) persons convicted of infamous crime unless restored to their civil rights and all persons while they are judicially declared mentally incompetent are excluded from the elective franchise.

Article XIII, section 1. Educational, reformatory, and penal institutions; those for the benefit of ((~~blind, deaf, dumb, or otherwise defective youth, for the insane or idiotic~~)) youth who are blind or deaf or otherwise disabled; for persons who are mentally ill or developmentally disabled; and such other institutions as the public good may require, shall be fostered and supported by the state, subject to such regulations as may be provided by law. The regents, trustees, or commissioners of all such institutions existing at the time of the adoption of this Constitution, and of such as shall thereafter be established by law, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by ayes and noes, and entered upon the journal.

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.

BE IT FURTHER RESOLVED, That the foregoing amendment shall be construed as a single amendment within the meaning of Article XXIII, section 1 of this Constitution.

The legislature finds that the changes contained in the foregoing amendment constitute a single integrated plan for updating terminology. If

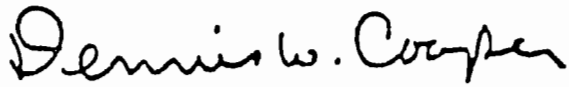
the foregoing amendment is held to be separate amendments, this joint resolution shall be void in its entirety and shall be of no further force and effect.

Passed the House March 9, 1988.
Passed the Senate March 6, 1988.
Filed in Office of Secretary of State March 14, 1988.

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 1988 regular session, chapters 1 through 289, and of the 1988 1st extraordinary session, chapters 1 and 2 (50th 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-seventh day of April, 1988.



DENNIS W. COOPER
Code Reviser

TABLE: BILL NO. TO CHAPTER NO.

Number		Chapter Number Laws of 1988
	SENATE	
SB	5016	202 PV
ESSB	5036	115
SSB	5147	16
ESB	5229	49
SSB	5333	255
2SSB	5378	276
SB	5451	30
SSB	5558	210
SSB	5586	121
SSB	5595	240
SB	5667	132
ESSB	5669	277
2SSB	5720	268
SSB	5844	31
SSB	5943	85
ESB	5953	32
SSB	6024	272 PV
SB	6078	3 *E2
SB	6084	4 *E2
ESB	6085	2 *E3
ESB	6093	60
SSB	6096	33
SB	6101	76
SB	6113	34
SSB	6115	278
SSB	6118	213
ESB	6119	212
ESSB	6124	207
SSB	6128	82
SB	6136	80
ESB	6143	86
SSB	6147	158
ESSB	6148	219
SSB	6157	256
SSB	6178	257
SSB	6181	174
SB	6182	285
SSB	6195	224
ESSB	6200	44
ESSB	6207	189
SB	6210	52
SB	6211	53
SSB	6212	164
SSB	6217	137
ESSB	6218	185
SSB	6219	203
E2SSB	6221	206
SB	6227	69
E2SSB	6235	284 PV
SSB	6238	279 PV
SSB	6240	230
SB	6243	83
SB	6245	92
SSB	6252	38
SSB	6255	138
SB	6260	197
ESB	6262	22
SSB	6264	171
ESSB	6266	258
SB	6271	245
SSB	6290	35
SB	6291	90
SB	6293	37
SB	6295	24
SB	6296	21
SB	6297	130
SSB	6298	124
ESSB	6305	144
ESSB	6308	234
SB	6313	70
ESSB	6316	282 PV
SSB	6332	226
SB	6338	39
SB	6339	14
ESSB	6342	228
ESSB	6344	254
SSB	6350	89
SB	6354	Vetoed
SSB	6357	139
SB	6362	15
SB	6370	127 PV
SB	6371	18
SB	6372	128
SB	6373	25
SB	6374	19
SB	6375	36
SSB	6376	191
SB	6396	140
SB	6397	273 PV
SSB	6399	51
SSB	6402	71
SSB	6404	93
SB	6408	204
SB	6412	72
SB	6418	105
SSB	6419	235
ESSB	6433	173
SSB	6435	182
SSB	6437	208
SSB	6438	Vetoed
ESB	6440	112
ESSB	6446	175
ESB	6447	Vetoed
SSB	6452	172
SSB	6462	157
SSB	6466	269
SSB	6470	247
SSB	6474	205
SB	6480	265 PV

"E1" Denotes 1988 1st ex. sess.
"*E2" Denotes 1987 2nd ex. sess.
"*E3" Denotes 1987 3rd ex. sess.

TABLE: BILL NO. TO CHAPTER NO.

Number		Chapter Number Laws of 1988
SSB	6486	263
SB	6494	12
SSB	6498	156
SSB	6512	253
2SSB	6513	46
SB	6516	26
ESB	6519	221
SB	6523	246
SSB	6530	198
ESSB	6534	48
SSB	6536	27
SB	6537	28
SSB	6548	84
SB	6556	40
ESB	6563	73
SSB	6569	270
SB	6578	50
ESB	6600	87
SSB	6603	106
SB	6608	218
SSB	6631	259
SB	6638	242
SB	6641	260
ESB	6647	214
SB	6667	23
SB	6668	122
SSB	6670	180
SB	6671	286
SB	6675	43
SSB	6703	99
ESB	6705	190
ESB	6720	250
E2SSB	6724	47
SSB	6736	108
ESSB	6741	215
ESSB	6742	66
SB	6745	91
ESSB	6763	2 E1 PV

HOUSE

ESHB	46	261
EHB	254	88
HB	280	8
2SHB	318	248
E2SHB	537	100
SHB	608	142
SHB	657	199
EHB	662	94
EHB	668	217
SHB	692	141
SHB	752	266 PV
SHB	791	159
SHB	932	264
ESHB	1089	67
SHB	1170	114
HB	1260	1 *E2
HB	1261	1 *E2
HB	1264	1 *E3
HB	1270	3
SHB	1271	143 PV
EHB	1272	149
HB	1278	133
SHB	1279	155 PV
HB	1280	151
SHB	1285	95
HB	1288	101
HB	1292	160
ESHB	1295	200
SHB	1297	134
HB	1300	9
SHB	1302	146
EHB	1304	54
HB	1306	2
ESHB	1312	289 PV
ESHB	1317	168
HB	1318	1
SHB	1319	236
SHB	1320	249
HB	1325	220
SHB	1329	192
HB	1330	110
HB	1332	102
SHB	1333	145
SHB	1336	68
SHB	1339	62
SHB	1340	177
EHB	1341	181
EHB	1346	209
EHB	1354	216
HB	1361	77
SHB	1362	63
SHB	1366	109
SHB	1368	231
SHB	1369	178
SHB	1370	10
HB	1371	64
SHB	1373	131
SHB	1377	147
ESHB	1382	186
SHB	1383	193
EHB	1387	237
ESHB	1388	61
SHB	1389	238
SHB	1392	20
EHB	1396	161
EHB	1401	13
ESHB	1404	211 PV
ESHB	1416	129
HB	1418	58
SHB	1419	152

"E1" Denotes 1988 1st ex. sess.
"*E2" Denotes 1987 2nd ex. sess.
"*E3" Denotes 1987 3rd ex. sess.

TABLE: BILL NO. TO CHAPTER NO.

Number	Chapter Number Laws of 1988
ESHB 1420	274
ESHB 1424	153 PV
SHB 1429	154 PV
SHB 1445	150
ESHB 1450	41
SHB 1460	188
ESHB 1465	275 PV
SHB 1469	135
HB 1470	6
HB 1471	55
SHB 1472	4
SHB 1473	5
HB 1482	148
EHB 1492	81
HB 1504	29
EHB 1507	103
ESHB 1511	162
HB 1514	11
HB 1515	288 PV
SHB 1525	244
ESHB 1530	267 PV
HB 1531	17
EHB 1543	111
HB 1558	116
HB 1559	117
HB 1560	59
SHB 1562	136
2SHB 1565	163
SHB 1568	251
EHB 1581	166
EHB 1585	232 PV
ESHB 1586	194
EHB 1588	201
SHB 1592	271 PV
ESHB 1594	45
SHB 1612	74
HB 1616	79
SHB 1617	169
ESHB 1618	176
EHB 1626	104
EHB 1629	113
SHB 1633	233
2SHB 1640	125
HB 1649	195
SHB 1652	281 PV
SHB 1660	227
SHB 1672	56 PV
SHB 1673	280 PV
SHB 1680	96
SHB 1683	126
SHB 1684	184
HB 1686	120
SHB 1690	239
HB 1693	65
HB 1694	97
HB 1695	241
ESHB 1701	283 PV
HB 1710	165
2SHB 1713	183
SHB 1729	225
ESHB 1740	98
SHB 1745	187
SHB 1754	222
HB 1760	7
SHB 1783	243
EHB 1796	123
HB 1813	57
ESHB 1817	179
HB 1833	196
E2SHB 1835	42
HB 1836	170
SHB 1845	223
ESHB 1849	119
SHB 1857	167
SHB 1862	75
SHB 1883	287 PV
EHB 1884	229
SHB 1915	252
HB 1951	262
SHB 1952	78
ESHB 2038	107
EHB 2046	118
EHB 2057	1 E1 PV

"E1" Denotes 1988 1st ex. sess.
"*E2" Denotes 1987 2nd ex. sess.
"*E3" Denotes 1987 3rd ex. sess.

RCW		CH.	SEC.
2	ADD	109	12–22
	(Effective 7/1/88)		
2.04.160	REP	202	96
2.04.170	REP	202	96
2.08.063	AMD	66	1
2.10	ADD	109	4,8–10
	(Effective 7/1/88)		
2.10.030	AMD	109	1
	(Effective 7/1/88)		
2.10.040	AMD	109	2
	(Effective 7/1/88)		
2.10.100	AMD	109	3
	(Effective 7/1/88)		
2.10.140	AMD	109	7
	(Effective 7/1/88)		
2.10.150	REP	109	26
2.10.160	REP	109	28
2.24.050	AMD	202	1
2.32.180	AMD	66	3
2.36	ADD	188	4,6,9,
	(Effective 1/1/89)		13,14
2.36.010	AMD	188	2
	(Effective 1/1/89)		
2.36.050	AMD	188	3
	(Effective 1/1/89)		
2.36.060	REP	188	21
	(Effective 1/1/89)		
2.36.063	AMD	188	5
	(Effective 1/1/89)		
2.36.070	AMD	188	7
	(Effective 1/1/89)		
2.36.090	REP	188	21
	(Effective 1/1/89)		
2.36.093	AMD	188	8
	(Effective 1/1/89)		
2.36.100	AMD	188	10
	(Effective 1/1/89)		
2.36.110	AMD	188	11
	(Effective 1/1/89)		
2.36.130	AMD	188	12
	(Effective 1/1/89)		
2.36.140	REP	188	21
	(Effective 1/1/89)		
2.36.160	REP	188	21
	(Effective 1/1/89)		
2.56.030	AMD	109	23
	(Effective 7/1/88)		
2.56.030	AMD	234	2
3.46.120	AMD	169	1
3.50.100	AMD	169	2
3.62.020	AMD	169	3
3.62.040	AMD	169	4
3.66.040	AMD	71	1
4.16	ADD	144	1
4.16.350	AMD	144	2
4.24	ADD	42	15
4.32.250	AMD	202	2
4.88.260	REP	202	96
4.92.030	AMD	202	3
6.01	ADD	231	1,2
6.08.010	REP	231	37
6.08.020	REP	231	37
6.08.030	REP	231	37
6.08.040	REP	231	37
6.08.050	REP	231	37
6.08.060	REP	231	37
6.13.080	AMD	192	1
6.13.080	AMD	231	3
6.13.090	AMD	231	4
6.15.010	AMD	231	5
6.15.020	REMD	231	6
6.15.060	AMD	231	7
6.17.100	AMD	231	8
6.17.110	AMD	231	9
6.17.130	AMD	231	10
6.17.140	AMD	231	11
6.17.160	AMD	231	12
6.17.190	AMD	231	13
6.21.020	AMD	231	14
6.25.070	AMD	231	15
6.25.080	REEN	231	16
6.25.120	AMD	231	17
6.25.210	REP	231	37
6.26	ADD	231	21
6.26.010	AMD	231	18
6.26.020	AMD	231	19
6.26.060	AMD	231	20
6.27.060	REEN	231	22
6.27.080	AMD	231	23
6.27.090	AMD	231	24
6.27.100	AMD	231	25
6.27.110	AMD	231	26
6.27.130	AMD	231	27
6.27.160	AMD	231	28
6.27.180	AMD	231	29
6.27.190	AMD	231	30
6.27.200	AMD	231	31
6.27.250	AMD	231	32
6.27.270	AMD	231	33
6.27.340	AMD	231	34
6.27.350	AMD	231	35
7	ADD	141	4–16
7.16.350	AMD	202	4
7.20.140	AMD	202	5
7.48.052	AMD	141	1
7.48A.010	AMD	141	2
7.48A.020	AMD	141	3
7.68.240	AMD	155	4
7.72.030	AMD	94	1
8.04.070	AMD	202	6
8.04.080	AMD	188	15
	(Effective 1/1/89)		

"E1" Denotes 1988 1st ex. sess.
"*E2" Denotes 1987 2nd ex. sess.
"*E3" Denotes 1987 3rd ex. sess.

RCW		CH.	SEC.
8.04.130	AMD	202	7
8.04.150	AMD	202	8
8.08.080	AMD	202	9
8.12.200	AMD	202	10
8.12.530	AMD	202	11
8.16.130	AMD	202	12
8.20.100	AMD	202	13
8.20.120	AMD	202	14
8.24	ADD	129	1,2
8.24.030	AMD	129	3
8.26	ADD	90	3–11,15
8.26.010	AMD	90	1
8.26.020	AMD	90	2
8.26.030	REP	90	17
8.26.040	REP	90	17
8.26.050	REP	90	17
8.26.060	REP	90	17
8.26.070	REP	90	17
8.26.080	REP	90	17
8.26.090	REP	90	17
8.26.100	REP	90	17
8.26.110	REP	90	17
8.26.120	REP	90	17
8.26.130	REP	90	17
8.26.140	REP	90	17
8.26.150	REP	90	17
8.26.160	REP	90	17
8.26.170	REP	90	17
8.26.180	AMD	90	12
8.26.190	AMD	90	13
8.26.200	AMD	90	14
9.41.070	AMD	36	1
9.41.070	AMD	219	1
9.41.070	AMD	223	1
9.41.070	AMD	263	10
9.41.090	AMD	36	2
9.41.098	REMD	223	2
9.41.185	AMD	36	3
9.41.310	AMD	36	4
9.91	ADD	62	1
9.91	ADD	224	1
9.91.050	REP	120	11
9.91.055	REP	120	11
9.91.120	REP	62	3
9.94A	ADD	153	4,5,8
	(Effective 7/1/88)		
9.94A.030	REMD	145	11
	(Effective 7/1/88)		
9.94A.030	REMD	153	1
	(Effective 7/1/88)		
9.94A.030	REMD	154	2
9.94A.030	REMD	157	1
9.94A.060	AMD	157	2
9.94A.110	AMD	60	1
9.94A.120	REMD	143	21
9.94A.120	REMD	153	2
	(Effective 7/1/88)		
9.94A.120	REMD	154	3
9.94A.150	AMD	3	1
9.94A.150	AMD	153	3
	(Effective 7/1/88)		
9.94A.170	AMD	153	9
	(Effective 7/1/88)		
9.94A.180	AMD	154	4
9.94A.190	AMD	154	5
9.94A.200	AMD	153	11
	(Effective 7/1/88)		
9.94A.200	AMD	155	2
9.94A.310	AMD	218	1
9.94A.320	REMD	62	2
9.94A.320	REMD	145	12
	(Effective 7/1/88)		
9.94A.320	REMD	218	2
9.94A.330	REP	157	6
9.94A.360	AMD	153	12
	(Effective 7/1/88)		
9.94A.360	AMD	157	3
9.94A.380	AMD	155	3
9.94A.380	AMD	157	4
9.94A.383	AMD	143	23
9.94A.400	AMD	143	24
9.94A.400	AMD	157	5
9.94A.440	AMD	145	13
	(Effective 7/1/88)		
9.95.060	AMD	202	15
9A.04.080	REMD	145	14
	(Effective 7/1/88)		
9A.04.110	AMD	158	1
	(Effective 7/1/88)		
9A.36	ADD	2 *E3	34
	ADD	112	34
	(Effective 3/1/89)		
9A.36.021	AMD	158	2
	(Effective 7/1/88)		
9A.36.021	AMD	206	916
	(Effective 7/1/88)		
9A.36.021	AMD	266	2
	(Effective 7/1/88)		
9A.36.031	AMD	158	3
	(Effective 7/1/88)		
9A.36.100	AMD	151	1
9A.44	ADD	145	2–9,22
	(Effective 7/1/88)		
9A.44.010	AMD	145	1
	(Effective 7/1/88)		
9A.44.010	AMD	146	3
	(Effective 7/1/88)		
9A.44.030	AMD	145	20
	(Effective 7/1/88)		
9A.44.050	AMD	146	1
	(Effective 7/1/88)		

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RCW		CH.	SEC.
9A.44.070	REP	145	24
	(Effective 7/1/88)		
9A.44.080	REP	145	24
	(Effective 7/1/88)		
9A.44.090	REP	145	24
	(Effective 7/1/88)		
9A.44.100	AMD	145	10
	(Effective 7/1/88)		
9A.44.100	AMD	146	2
	(Effective 7/1/88)		
9A.46.060	AMD	145	15
	(Effective 7/1/88)		
9A.82.010	AMD	33	5
	(Effective 7/1/88)		
9A.88	ADD	146	4
9A.88.030	AMD	145	16
	(Effective 7/1/88)		
10.27.020	AMD	188	16
	(Effective 1/1/89)		
10.27.040	AMD	188	17
	(Effective 1/1/89)		
10.31.100	REMD	190	1
10.77.130	REP	202	96
10.77.230	AMD	202	16
10.82.070	AMD	169	5
10.93.020	AMD	36	5
10.95.150	AMD	202	17
10.98.130	AMD	152	1
11.08.160	AMD	64	23
11.08.160	AMD	128	1
11.08.220	AMD	128	2
11.08.270	AMD	128	3
11.28.340	AMD	29	1
11.40.080	AMD	64	22
11.52.016	AMD	202	18
11.62.005	AMD	64	24
11.62.010	AMD	29	2
11.62.010	AMD	64	25
11.68.090	AMD	29	3
11.76.090	AMD	29	4
11.76.095	AMD	29	5
11.96.070	AMD	29	6
11.96.160	AMD	202	19
11.96.170	AMD	29	7
11.98.110	AMD	29	8
11.108	ADD	64	29
11.108.010	AMD	64	27
11.108.020	AMD	64	28
11.110.110	AMD	202	20
12.12.040	REP	188	22
	(Effective 1/1/89)		
12.12.060	REP	188	22
	(Effective 1/1/89)		
12.12.100	REP	188	22
	(Effective 1/1/89)		
12.40	ADD	85	3
12.40.010	AMD	85	1
12.40.120	AMD	85	2
13.04.021	AMD	232	3
13.04.030	AMD	14	1
13.32A	ADD	275	14
	(Effective 7/1/88)		
13.34	ADD	194	3
13.34	ADD	275	15
	(Effective 7/1/88)		
13.34.030	AMD	176	901
13.34.070	AMD	194	2
13.34.080	AMD	201	1
13.34.100	AMD	232	1
13.34.130	AMD	189	2
13.34.130	AMD	190	2
13.34.130	AMD	194	1
13.34.180	AMD	201	2
13.34.210	AMD	203	2
13.40	ADD	148	2
13.40.020	AMD	145	17
	(Effective 7/1/88)		
13.40.110	AMD	145	18
	(Effective 7/1/88)		
15	ADD	230	1-7
	(Effective 1/1/89)		
15.09.030	AMD	254	7
15.30.040	AMD	254	6
15.49.470	AMD	254	2
15.52.320	AMD	254	4
15.53.9044	AMD	254	5
15.54.480	AMD	254	3
15.60	ADD	4	7,14
15.60.005	AMD	4	1
15.60.015	AMD	4	2
15.60.020	AMD	4	3
15.60.025	AMD	4	4
15.60.030	AMD	4	5
15.60.040	AMD	4	6
15.60.043	AMD	4	8
15.60.045	REP	4	15
15.60.050	AMD	4	9
15.60.060	REP	4	15
15.60.080	REP	4	15
15.60.100	AMD	4	10
15.60.110	AMD	4	11
15.60.115	REP	4	15
15.60.120	AMD	4	12
15.60.130	REP	4	15
15.60.140	AMD	4	13
15.65	ADD	54	1
15.66	ADD	54	2
15.85.060	AMD	36	6
15.88	ADD	257	1-5
15.88.020	AMD	257	6
15.88.030	AMD	254	12
15.88.040	AMD	254	13

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15.88.100	AMD	254	14
	(Effective 7/1/89)		
16.68.190	AMD	36	7
17.04.030	AMD	128	4
17.04.230	AMD	202	21
17.06.030	AMD	128	5
17.16.110	AMD	202	22
17.21.230	AMD	36	8
18	ADD	243	1–5
18	ADD	267	1–11, 13–18
18	ADD	277	1–11
18.11.070	AMD	240	19
18.27.030	REMD	285	1
18.27.040	AMD	139	1
18.27.080	AMD	285	2
18.27.114	AMD	182	1
18.32.640	AMD	217	1
18.36A.040	AMD	246	1
18.44	ADD	178	3
18.44.070	AMD	178	1
18.44.360	AMD	178	2
18.52A.020	AMD	267	19
18.52A.030	AMD	267	20
18.71.010	AMD	104	1
18.71.030	AMD	48	4
18.71A	ADD	113	2
18.71A.010	AMD	113	1
18.73.010	AMD	104	2
18.73.030	AMD	104	3
18.73.081	AMD	111	1
18.74	ADD	185	2–5
18.74.010	AMD	185	1
18.78	ADD	211	12
18.78	ADD	211	3
18.78.050	AMD	211	4
18.78.060	AMD	212	1
	(Effective 4/1/88)		
18.85	ADD	205	1
18.85.040	AMD	205	2
18.85.095	AMD	205	3
18.85.110	AMD	240	20
18.85.215	REMD	205	4
18.85.230	REMD	205	5
18.85.240	AMD	205	6
18.85.251	AMD	205	7
18.85.271	AMD	205	8
18.85.310	AMD	286	2
18.85.505	RECD	286	4
18.85.510	AMD	286	3
18.85.510	RECD	286	4
18.88	ADD	48	1
18.88	ADD	211	13
18.88.080	AMD	211	8
18.88.150	AMD	211	5
18.88.190	AMD	211	9
18.88.200	AMD	211	10
18.88.220	AMD	211	11
18.88.280	AMD	37	1
18.120.020	REMD	267	21
18.120.020	REMD	277	12
18.130	ADD	247	2
18.130.040	REMD	243	7
18.130.040	REMD	267	22
18.130.040	REMD	277	13
19	ADD	240	1–18
19.02.110	AMD	5	3
19.27A.030	AMD	204	1
19.27A.040	AMD	204	2
19.28.005	AMD	81	1
19.28.015	AMD	81	2
19.28.060	AMD	81	3
19.28.065	AMD	81	4
19.28.123	AMD	81	5
19.28.125	AMD	81	6
19.28.210	AMD	81	7
19.28.260	AMD	81	8
19.28.300	AMD	81	9
19.28.310	AMD	81	10
19.28.330	AMD	81	11
19.28.350	AMD	81	12
19.28.530	AMD	81	13
19.28.540	AMD	81	14
19.28.580	AMD	81	15
19.28.620	AMD	81	16
19.77.100	AMD	202	23
19.94.410	AMD	63	1
19.105	ADD	159	4,6,9, 12,17,18
19.105	ADD	159	7
	(Effective 6/20/88)		
19.105.300	AMD	159	1
19.105.310	AMD	159	2
19.105.320	AMD	159	3
19.105.330	AMD	159	5
19.105.340	AMD	159	8
19.105.350	AMD	159	10
19.105.360	AMD	159	11
19.105.370	AMD	159	13
19.105.380	AMD	159	14
19.105.390	AMD	159	15
19.105.400	AMD	159	16
19.105.410	REP	159	28
19.105.420	AMD	159	19
19.105.430	AMD	159	20
19.105.440	AMD	159	21
19.105.450	AMD	159	22
19.105.470	AMD	159	23
19.105.480	AMD	159	24
19.105.510	AMD	159	25
19.105.520	AMD	159	26
19.105.530	AMD	159	27

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19.122	ADD	99	2
19.122.030	AMD	99	1
20.01.030	AMD	254	10
20.01.080	AMD	254	16
20.01.200	AMD	202	24
20.01.370	AMD	254	18
20.01.380	AMD	254	17
20.01.460	AMD	254	19
21.20	ADD	244	7–16
	(Effective 7/1/88)		
21.20.340	AMD	244	17
21.20.700	AMD	244	1
	(Effective 7/1/88)		
21.20.705	AMD	244	2
	(Effective 7/1/88)		
21.20.710	AMD	244	3
	(Effective 7/1/88)		
21.20.725	AMD	244	4
	(Effective 7/1/88)		
21.20.732	AMD	244	5
	(Effective 7/1/88)		
21.20.734	AMD	244	6
	(Effective 7/1/88)		
22.09.011	AMD	254	11
22.09.055	AMD	95	1
22.09.060	AMD	95	2
23A	ADD	4 *E2	2,5,10
23A.28	ADD	4 *E2	6
23A.28.129	AMD	225	3
23A.32	ADD	4 *E2	7
23A.32.010	AMD	4 *E2	8
23A.32.010	AMD	225	5
23A.32.200	AMD	225	4
23A.50.010	AMD	225	1
23A.50.020	AMD	225	2
23A.50.901	REP	225	6
24.32.360	AMD	202	25
26	ADD	275	1–7
26.09.100	AMD	275	9
	(Effective 6/9/88)		
26.09.170	AMD	275	17
	(Effective 7/1/88)		
26.10	ADD	275	12
	(Effective 7/1/88)		
26.12.060	AMD	232	4
26.16.220	AMD	34	1
26.16.230	AMD	34	2
26.16.240	AMD	34	3
26.16.250	AMD	34	4
26.21	ADD	275	13
	(Effective 7/1/88)		
26.23.030	AMD	275	18
	(Effective 7/1/88)		
26.26	ADD	275	16
	(Effective 7/1/88)		
26.33.170	AMD	203	1
26.44	ADD	87	1
26.44	ADD	190	4
26.44.020	REMD	142	1
26.44.030	REMD	39	1
26.44.030	REMD	142	2
26.44.060	AMD	142	3
26.44.063	AMD	190	3
27.53	ADD	124	3,5–7, 10–12
27.53.030	AMD	124	2
27.53.060	AMD	124	4
28A	ADD	268	2–5,7–9
28A.03.448	REP	268	10
28A.03.449	REP	268	10
28A.03.450	REP	268	10
28A.03.523	AMD	251	1
28A.03.532	AMD	251	2
28A.03.535	AMD	251	3
28A.04.010	AMD	255	1
28A.04.020	AMD	255	2
28A.04.050	AMD	255	3
28A.04.122	AMD	251	4
28A.05	ADD	206	402
	(Effective 7/1/88)		
28A.05.010	AMD	206	403
	(Effective 7/1/88)		
28A.05.060	AMD	172	1
28A.05.070	AMD	172	2
28A.21.010	AMD	65	1
28A.21.086	AMD	65	2
28A.21.090	AMD	65	3
28A.31	ADD	48	2,3
28A.34A.020	AMD	174	2
28A.34A.030	AMD	174	3
28A.34A.040	AMD	174	4
28A.34A.050	AMD	174	5
28A.34A.060	AMD	174	6
28A.34A.070	AMD	174	7
28A.34A.080	AMD	174	8
28A.34A.110	AMD	174	9
28A.41.112	AMD	1 *E3	4
28A.57.322	AMD	187	1
28A.58.085	AMD	256	2
28A.58.090	AMD	256	1
28A.58.225	AMD	268	6
28A.58.420	AMD	107	16
	(Effective 10/1/88)		
28A.58.500	AMD	202	26
28A.58.822	AMD	210	4
28A.60.010	AMD	187	2
28A.67.225	AMD	241	1
28A.70.005	AMD	97	1
28A.70.005	AMD	172	3
28A.70.140	REP	97	2
28A.87.230	AMD	2	1
28A.87.231	AMD	2	2

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28A.87.232	AMD	2	3
28A.100.038	AMD	1	1
28B	ADD	125	2,8–18
28B	ADD	242	1–7
28B.10	ADD	206	501
28B.10.870	AMD	125	3
28B.16.160	AMD	202	27
28B.19.010	REP	288	701
	(Effective 7/1/89)		
28B.19.020	REP	288	701
	(Effective 7/1/89)		
28B.19.030	REP	288	701
	(Effective 7/1/89)		
28B.19.033	REP	288	701
	(Effective 7/1/89)		
28B.19.037	REP	288	701
	(Effective 7/1/89)		
28B.19.040	REP	288	701
	(Effective 7/1/89)		
28B.19.050	REP	288	701
	(Effective 7/1/89)		
28B.19.060	REP	288	701
	(Effective 7/1/89)		
28B.19.070	REP	288	701
	(Effective 7/1/89)		
28B.19.073	REP	288	701
	(Effective 7/1/89)		
28B.19.077	REP	288	701
	(Effective 7/1/89)		
28B.19.080	REP	288	701
	(Effective 7/1/89)		
28B.19.090	REP	288	701
	(Effective 7/1/89)		
28B.19.100	REP	288	701
	(Effective 7/1/89)		
28B.19.110	REP	288	701
	(Effective 7/1/89)		
28B.19.120	REP	288	701
	(Effective 7/1/89)		
28B.19.130	REP	288	701
	(Effective 7/1/89)		
28B.19.140	REP	288	701
	(Effective 7/1/89)		
28B.19.150	REP	288	701
	(Effective 7/1/89)		
28B.19.160	REP	288	701
	(Effective 7/1/89)		
28B.19.163	REP	288	701
	(Effective 7/1/89)		
28B.19.165	REP	288	701
	(Effective 7/1/89)		
28B.19.168	REP	288	701
	(Effective 7/1/89)		
28B.19.200	REP	288	701
	(Effective 7/1/89)		
28B.19.210	REP	288	701
	(Effective 7/1/89)		
28B.30.310	AMD	128	6
28B.30.810	AMD	57	1
28B.50	ADD	32	1
28B.50	ADD	206	502
28B.50.040	AMD	77	1
	(Effective 7/1/88)		
28B.50.050	AMD	76	1
28B.50.851	AMD	32	2
28B.80	ADD	210	1,2
28B.80.350	AMD	172	4
28B.102	ADD	125	7
28C.04	ADD	206	503
29.04	ADD	181	1,2
29.36.075	AMD	181	3
29.51.100	AMD	181	4
29.51.170	AMD	181	5
29.79.170	AMD	202	28
29.79.210	AMD	202	29
29.82.160	AMD	202	30
30.04.310	AMD	25	1
30.22.200	AMD	29	9
31.04.090	AMD	7	1
31.04.100	AMD	7	2
31.04.160	AMD	25	2
31.08.010	AMD	25	3
31.08.100	AMD	25	4
31.08.230	AMD	25	5
31.08.260	AMD	202	31
31.16.025	AMD	25	6
31.16.030	AMD	25	7
31.16.230	AMD	25	8
31.16.310	AMD	25	9
31.16.330	DECD	25	11
31.30.140	REP	81	17
	(Effective 6/30/88)		
31.30.140	REP	186	13
	(Effective 6/30/88)		
33.04.060	AMD	202	32
33.08.070	AMD	202	33
33.40.120	AMD	202	34
34	ADD	288	401–404, 406–408, 410–412,414, 416–429
34	ADD	288	
	(Effective 7/1/89)		501,502, 506,507, 509–515, 517–522,607
34	ADD	288	307,
	(Effective 7/1/89)		310–314
34	ADD	288	105–108,
	(Effective 7/1/89)		203,205, 301,302,304

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34.04	ADD	2 *E3	26
34.04	ADD	112	26
	(Effective 3/1/89)		
34.04.010	AMD	288	101
	(Effective 7/1/89)		
34.04.020	AMD	288	202
	(Effective 7/1/89)		
34.04.022	REP	288	701
	(Effective 7/1/89)		
34.04.025	REP	288	701
	(Effective 7/1/89)		
34.04.026	REP	288	701
	(Effective 7/1/89)		
34.04.027	AMD	288	308
	(Effective 7/1/89)		
34.04.030	AMD	288	309
	(Effective 7/1/89)		
34.04.040	AMD	288	315
	(Effective 7/1/89)		
34.04.045	AMD	288	303
	(Effective 7/1/89)		
34.04.048	AMD	288	306
	(Effective 7/1/89)		
34.04.050	AMD	288	201
	(Effective 7/1/89)		
34.04.052	REP	288	701
	(Effective 7/1/89)		
34.04.055	AMD	288	316
	(Effective 7/1/89)		
34.04.057	AMD	288	317
	(Effective 7/1/89)		
34.04.058	AMD	288	318
	(Effective 7/1/89)		
34.04.060	AMD	288	305
	(Effective 7/1/89)		
34.04.070	AMD	288	508
	(Effective 7/1/89)		
34.04.080	AMD	288	204
	(Effective 7/1/89)		
34.04.090	AMD	288	409
	(Effective 7/1/89)		
34.04.100	AMD	288	415
	(Effective 7/1/89)		
34.04.105	AMD	288	413
	(Effective 7/1/89)		
34.04.110	REP	288	701
	(Effective 7/1/89)		
34.04.120	REP	288	701
	(Effective 7/1/89)		
34.04.130	AMD	288	516
	(Effective 7/1/89)		
34.04.133	AMD	288	503
	(Effective 7/1/89)		
34.04.135	AMD	288	504
	(Effective 7/1/89)		
34.04.140	AMD	202	35
34.04.140	AMD	288	505
	(Effective 7/1/89)		
34.04.150	AMD	288	103
	(Effective 7/1/89)		
34.04.170	AMD	288	405
	(Effective 7/1/89)		
34.04.210	AMD	288	601
	(Effective 7/1/89)		
34.04.220	AMD	288	602
	(Effective 7/1/89)		
34.04.230	AMD	288	603
	(Effective 7/1/89)		
34.04.240	AMD	288	604
	(Effective 7/1/89)		
34.04.250	AMD	288	605
	(Effective 7/1/89)		
34.04.260	AMD	288	606
	(Effective 7/1/89)		
34.04.270	REP	288	701
	(Effective 7/1/89)		
34.04.280	REP	288	701
	(Effective 7/1/89)		
34.04.290	REP	288	701
	(Effective 7/1/89)		
34.04.900	REP	288	701
	(Effective 7/1/89)		
34.04.901	REP	288	701
	(Effective 7/1/89)		
34.04.910	REP	288	701
	(Effective 7/1/89)		
34.04.920	REP	288	701
	(Effective 7/1/89)		
34.04.921	REP	288	701
	(Effective 7/1/89)		
34.04.930	AMD	288	104
	(Effective 7/1/89)		
34.04.931	REP	288	701
	(Effective 7/1/89)		
34.04.940	AMD	288	102
	(Effective 7/1/89)		
35.20.220	AMD	169	6
35.21	ADD	233	1
35.22.288	AMD	168	1
35.23.310	AMD	168	2
35.23.352	AMD	168	3
35.24.220	AMD	168	4
35.27.160	AMD	196	1
35.27.300	AMD	168	5
35.30.018	AMD	168	6
35.43	ADD	179	8–11
35.44.260	AMD	202	36
35.44.270	AMD	202	37
35.55.080	AMD	202	38
35.56.090	AMD	202	39
35.63	ADD	168	9
35.63	ADD	239	1

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35.63.060	AMD	127		1
35.72.040	AMD	179		16
35.77.010	AMD	167		6
35A.12.160	AMD	168		7
35A.63	ADD	168		10
35A.63	ADD	239		2
35A.80.010	AMD	127		2
36	ADD	1	E1	11-17
36.17.040	AMD	281		9
36.24.020	AMD	188		18
	(Effective 1/1/89)			
36.29	ADD	281		5
36.32.120	AMD	168		8
36.35.080	AMD	128		7
36.36.040	AMD	258		1
36.61.040	AMD	36		9
36.61.050	AMD	36		10
36.68	ADD	82		8
36.68.400	AMD	82		1
36.68.541	AMD	82		2
36.68.550	AMD	82		3
36.68.570	AMD	82		4
36.68.580	AMD	82		5
36.68.600	AMD	82		6
36.70	ADD	168		11
36.73.120	AMD	179		7
36.79.010	AMD	26		1
36.79.020	AMD	26		2
36.79.050	AMD	26		3
36.79.060	AMD	26		4
36.79.090	AMD	26		5
36.79.110	AMD	167		7
36.79.120	AMD	26		6
36.81.121	AMD	167		8
36.88	ADD	179		12-15
36.93.160	AMD	202		40
36.94.290	AMD	202		41
36.95.080	AMD	222		1
37.08.220	AMD	128		8
37.08.250	AMD	128		9
37.12	ADD	108		5
37.12.100	AMD	108		1
37.12.110	AMD	108		2
37.12.120	AMD	108		3
37.12.140	AMD	108		4
38.16	ADD	288		17
38.52.040	AMD	81		18
38.52.420	AMD	36		11
39	ADD	179		1-5
39	ADD	281		1-3
39.04	ADD	180		1
39.04.150	AMD	36		12
39.42	ADD	92		1
39.67.010	AMD	274		2
39.67.020	AMD	274		3
41.04	ADD	59		2
	(Effective 1/1/89)			
41.04.205	AMD	107		17
	(Effective 10/1/88)			
41.04.230	AMD	107		19
	(Effective 10/1/88)			
41.04.270	AMD	195		5
	(Effective 7/1/88)			
41.04.445	AMD	109		24
	(Effective 7/1/88)			
41.05	ADD	107		1-5,
	(Effective 10/1/88)			7-12
				14,15
41.05.005	REP	107		35
	(Effective 10/1/88)			
41.05.010	REP	107		35
	(Effective 10/1/88)			
41.05.025	REP	107		35
	(Effective 10/1/88)			
41.05.030	REP	107		35
	(Effective 10/1/88)			
41.05.040	REP	107		35
	(Effective 10/1/88)			
41.05.045	REP	107		35
	(Effective 10/1/88)			
41.05.050	AMD	107		18
	(Effective 10/1/88)			
41.05.060	REP	107		35
	(Effective 10/1/88)			
41.05.070	REP	107		35
	(Effective 10/1/88)			
41.16.020	AMD	164		2
41.20.010	AMD	164		3
41.26.110	AMD	164		1
41.32.498	AMD	116		1
	(Effective 6/30/88)			
41.32.820	AMD	117		1
	(Effective 7/1/88)			
41.32.825	AMD	117		2
	(Effective 7/1/88)			
41.40	ADD	109		5,6
	(Effective 7/1/88)			
41.40.120	AMD	109		25
	(Effective 7/1/88)			
41.40.380	AMD	107		20
	(Effective 10/1/88)			
41.40.690	AMD	109		11
	(Effective 7/1/88)			
41.54	ADD	195		6
	(Effective 7/1/88)			
41.54.010	AMD	195		1
	(Effective 7/1/88)			
41.54.030	AMD	195		2
	(Effective 7/1/88)			
41.54.040	AMD	195		3
	(Effective 7/1/88)			

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41.54.070	AMD	195	4
	(Effective 7/1/88)		
41.56.460	AMD	110	1
41.56.475	AMD	110	2
41.56.495	AMD	110	3
41.64.140	AMD	202	42
42.17	ADD	199	1
42.17	ADD	219	2
42.17.530	AMD	199	2
42.17.2401	AMD	36	13
42.44.100	AMD	69	4
43	ADD	120	1-10
43.03.028	REMD	167	9
43.09.250	AMD	52	1
43.09.300	AMD	53	1
43.19	ADD	281	6
43.19.010	AMD	25	10
43.19.450	AMD	36	14
43.19.537	AMD	175	1
	(Effective 7/1/88)		
43.19.538	AMD	175	2
	(Effective 7/1/88)		
43.19.1919	AMD	124	8
43.20A.370	AMD	49	1
43.20A.375	AMD	49	2
43.20B.410	AMD	176	902
43.20B.420	AMD	176	903
43.20B.425	AMD	176	904
43.20B.430	AMD	176	905
43.20B.440	AMD	176	906
43.20B.445	AMD	176	907
43.20B.455	AMD	176	908
43.21.010	REP	127	86
43.21.040	REP	127	86
43.21.050	AMD	127	3
43.21.050	RECD	127	84
43.21.060	REP	127	86
43.21.070	AMD	127	4
43.21.070	RECD	127	84
43.21.080	RECD	127	84
43.21.080	AMD	127	5
43.21.090	AMD	127	6
43.21.090	RECD	127	84
43.21.110	RECD	127	84
43.21.130	RECD	127	84
43.21.140	RECD	127	84
43.21.141	DECD	127	85
43.21.160	RECD	127	84
43.21.190	RECD	127	84
43.21.200	AMD	127	7
43.21.200	RECD	127	84
43.21.210	REP	127	86
43.21.220	AMD	127	8
43.21.220	RECD	127	84
43.21.230	AMD	127	9
43.21.230	RECD	127	84
43.21.240	REP	127	86
43.21.250	AMD	127	10
43.21.250	RECD	127	84
43.21.260	AMD	127	11
43.21.260	RECD	127	84
43.21.270	AMD	127	12
43.21.270	RECD	127	84
43.21.280	AMD	127	13
43.21.280	RECD	127	84
43.21.290	AMD	127	14
43.21.290	RECD	127	84
43.21.300	AMD	127	15
43.21.300	RECD	127	84
43.21.310	AMD	127	16
43.21.310	RECD	127	84
43.21.320	AMD	127	17
43.21.320	RECD	127	84
43.21.330	AMD	127	18
43.21.330	RECD	127	84
43.21.340	AMD	127	19
43.21.340	RECD	127	84
43.21.350	RECD	127	84
43.21.360	AMD	127	20
43.21.360	RECD	127	84
43.21.370	RECD	127	84
43.21.370	AMD	127	21
43.21.380	RECD	127	84
43.21.390	AMD	127	22
43.21.390	RECD	127	84
43.21.400	RECD	127	84
43.21.410	AMD	127	23
43.21.410	RECD	127	84
43.21A.060	DECD	127	85
43.21A.170	AMD	36	15
43.21A.190	AMD	127	24
43.21A.400	DECD	127	85
43.21A.445	AMD	279	1
43.21B.190	AMD	202	43
43.21B.310	ADD	2 *E3	49
43.21B.310	AMD	112	49
	(Effective 3/1/89)		
43.21C	ADD	2 *E3	27
43.21C	ADD	112	27
	(Effective 3/1/89)		
43.22.440	AMD	239	5
43.23	ADD	254	1
43.27A.080	DECD	127	85
43.27A.090	AMD	127	25
43.27A.120	DECD	127	85
43.27A.130	AMD	127	26
43.27A.180	DECD	127	85
43.27A.220	AMD	127	27
43.30.070	DECD	128	77
43.30.080	DECD	128	77
43.30.090	DECD	128	77
43.30.110	DECD	128	77

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43.30.120	DECD	128	77
43.30.150	AMD	128	10
43.30.190	DECD	128	77
43.30.220	DECD	128	77
43.30.230	DECD	128	77
43.30.240	DECD	128	77
43.30.380	REP	186	12
	(Effective 6/30/91)		
43.31.373	AMD	35	1
43.31.377	AMD	35	2
43.31.379	AMD	35	3
43.31.381	AMD	35	4
43.31.389	REP	35	7
43.33A.110	AMD	130	1
43.43	ADD	21	1
43.46.045	AMD	81	23
43.49.010	REP	127	86
43.49.020	REP	127	86
43.49.030	REP	127	86
43.49.040	REP	127	86
43.49.050	REP	127	86
43.49.060	REP	127	86
43.49.070	REP	127	86
43.51	ADD	75	1–15
	(Effective 1/1/89)		
43.51.055	AMD	176	909
43.51.057	REP	80	1
43.51.270	AMD	79	1
43.51.340	AMD	36	16
43.51.675	AMD	75	17
	(Effective 1/1/89)		
43.51.680	REP	75	19
	(Effective 1/1/89)		
43.51.685	AMD	75	18
	(Effective 1/1/89)		
43.51.943	AMD	36	17
43.52.350	AMD	36	18
43.52.430	AMD	202	44
43.60A.081	REP	216	1
43.62.030	AMD	260	1
43.63A.230	AMD	186	17
	(Effective 6/30/93)		
43.78.030	AMD	102	1
43.81.010	AMD	36	19
43.82.010	AMD	36	20
43.83B.210	AMD	46	1
43.83B.300	AMD	45	1
43.83B.300	AMD	46	2
43.83B.300	AMD	47	1
43.83B.310	AMD	46	3
43.83B.342	AMD	46	4
43.83B.344	AMD	46	5
43.92.010	AMD	127	28
43.99.110	AMD	36	21
43.99G.020	AMD	36	22

RCW		CH.	SEC.
43.117.910	REP	288	3
	(Effective 7/1/89)		
43.121	ADD	278	1–3
43.121.015	AMD	278	4
43.121.050	AMD	278	5
43.131	ADD	186	3–6,9, 10,14,15
43.131.060	AMD	17	1
43.131.215	AMD	288	1
43.131.216	AMD	288	2
43.131.227	REP	216	1
43.131.228	REP	216	1
43.131.245	REP	216	1
43.131.246	REP	216	1
43.131.301	AMD	288	4
43.131.302	AMD	288	5
43.131.303	AMD	288	6
43.131.304	AMD	288	7
43.131.315	AMD	35	5
43.131.316	AMD	35	6
43.131.323	AMD	288	8
43.131.327	AMD	288	9
43.131.328	AMD	288	10
43.131.329	AMD	288	11
43.131.330	AMD	288	12
43.131.331	AMD	288	13
43.131.332	AMD	288	14
43.131.333	AMD	288	15
43.131.334	AMD	288	16
43.131.900	AMD	17	2
43.150.050	AMD	206	301
43.155	ADD	93	1
43.155.060	AMD	93	2
43.155.070	AMD	93	3
43.168	ADD	186	7
43.168.020	AMD	42	18
43.168.030	REP	186	8
	(Effective 6/30/94)		
43.185.070	AMD	286	1
43.190.030	AMD	119	3
43.220.020	AMD	36	23
43.220.070	AMD	78	1
43.220.120	AMD	36	24
43.260.010	AMD	278	6
44.40.070	AMD	167	10
46	ADD	227	1–4
46.01.140	AMD	12	1
46.04.480	AMD	148	8
46.04.582	AMD	6	1
46.08.172	AMD	2 E1	901
46.09.170	AMD	36	25
46.10.220	AMD	36	26
46.16.170	AMD	56	2
46.16.310	AMD	15	1
46.16.605	AMD	36	27
46.20	ADD	148	7

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RCW		CH.	SEC.
46.20.021	AMD	88	1
46.20.120	AMD	88	2
46.20.311	REMD	148	9
46.20.505	AMD	227	5
46.37.480	AMD	227	6
46.37.500	AMD	15	2
46.44.041	AMD	6	2
46.44.041	AMD	229	1
46.44.093	AMD	239	3
46.44.095	AMD	55	1
46.44.160	AMD	55	2
46.48.170	AMD	81	19
46.48.190	REP	81	20
46.52.035	AMD	8	1
46.52.120	AMD	38	2
46.61.581	AMD	74	1
46.64.020	AMD	38	1
46.70.011	AMD	287	1
46.70.021	AMD	287	2
46.76	ADD	239	4
46.90.300	AMD	24	1
46.90.406	AMD	24	2
46.90.427	AMD	24	3
46.90.700	AMD	24	4
47.01.031	AMD	167	11
47.01.240	AMD	167	12
47.12.063	AMD	135	1
47.12.130	REP	135	2
47.26	ADD	167	1-3,5
47.26.080	AMD	167	13
47.26.085	REP	167	34
47.26.090	REMD	167	14
47.26.120	REP	167	34
47.26.130	AMD	167	15
47.26.140	AMD	167	16
47.26.150	REMD	167	17
47.26.160	AMD	167	18
47.26.170	AMD	167	19
47.26.180	AMD	167	20
47.26.183	REP	167	34
47.26.185	AMD	167	21
47.26.190	AMD	167	22
47.26.220	AMD	167	23
47.26.230	AMD	167	24
47.26.240	AMD	167	25
47.26.260	AMD	167	26
47.26.270	AMD	167	27
47.26.281	REP	167	34
47.26.290	REP	167	34
47.26.305	AMD	167	28
47.26.310	AMD	167	29
47.26.430	AMD	167	31
47.26.440	AMD	167	32
47.26.450	AMD	167	33
47.26.4254	AMD	167	30
47.32.060	AMD	202	45
47.42	ADD	98	1
47.60.310	AMD	100	1
47.64.270	AMD	107	21
	(Effective 10/1/88)		
48.02.160	AMD	248	1
48.04.010	AMD	248	2
48.04.140	AMD	248	3
48.05.390	AMD	248	6
48.07	ADD	248	5
48.07.150	AMD	248	4
48.14	ADD	107	32
48.14.010	AMD	248	7
48.14.040	AMD	248	8
48.17.150	AMD	248	9
48.17.230	AMD	248	10
48.17.450	AMD	248	11
48.17.480	AMD	248	12
48.17.490	AMD	248	13
48.17.540	AMD	248	14
48.17.600	AMD	248	15
48.18.289	AMD	249	1
	(Effective 9/1/88)		
48.18.290	AMD	249	2
	(Effective 9/1/88)		
48.18.2901	AMD	249	3
	(Effective 9/1/88)		
48.20	ADD	173	1
48.21	ADD	173	2
48.21	ADD	276	6
48.21.220	AMD	245	31
	(Effective 7/1/89)		
48.21A.090	AMD	245	32
	(Effective 7/1/89)		
48.22.060	AMD	248	16
48.24.010	AMD	107	22
	(Effective 10/1/88)		
48.30.157	AMD	248	17
48.30.260	AMD	248	18
48.31.190	AMD	202	46
48.44	ADD	173	3
48.44	ADD	276	7
48.44.160	AMD	248	19
48.44.320	AMD	245	33
	(Effective 7/1/89)		
48.46	ADD	173	4
48.46	ADD	276	8
48.62.070	AMD	281	4
49.12	ADD	236	1-7
	(Effective 9/1/88)		
49.12.005	AMD	236	8
	(Effective 9/1/88)		
49.26	ADD	271	7,8,11,
	(Effective 1/1/89)		13,16
49.26.100	AMD	271	6
	(Effective 1/1/89)		

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49.26.110	AMD	271	10
	(Effective 1/1/89)		
49.26.120	AMD	271	12
	(Effective 1/1/89)		
49.26.130	AMD	271	15
49.28	ADD	121	1
49.60	ADD	206	902,903
49.60.260	AMD	202	47
49.64	ADD	259	1
50.16	ADD	84	2
50.16.070	AMD	289	710
50.20.090	AMD	83	1
50.29.020	REMD	27	1
50.32	ADD	28	1
50.32.160	AMD	202	48
51.08.178	AMD	161	12
51.12	ADD	271	1
	(Effective 7/1/88)		
51.12.100	AMD	271	2
	(Effective 7/1/88)		
51.12.130	AMD	140	1
51.32	ADD	114	1–4
51.32	ADD	161	15
51.32.050	AMD	161	2
	(Effective 7/1/88)		
51.32.055	AMD	161	13
51.32.060	REMD	161	1
	(Effective 7/1/88)		
51.32.075	AMD	161	7
51.32.080	AMD	161	6
	(Effective 7/1/88)		
51.32.090	REEN	161	4
	(Effective 6/30/89)		
51.32.090	AMD	161	3
	(Effective 7/1/88)		
51.32.095	AMD	161	9
51.32.160	AMD	161	11
51.32.180	AMD	161	5
51.32.250	AMD	161	10
51.44.080	AMD	161	8
51.52.110	AMD	202	49
52.04	ADD	274	12
52.22.101	AMD	202	50
53.08.120	AMD	235	1
54.16.160	AMD	202	51
54.16.165	AMD	202	52
56.02	ADD	162	8
56.02.060	AMD	162	5
56.02.070	AMD	162	6
56.08.090	AMD	162	1
56.16.135	AMD	162	10
56.24.070	AMD	162	13
56.36	ADD	162	3
57.02.040	AMD	162	7
57.06	ADD	162	9
57.08	ADD	11	2
57.08.010	AMD	11	1
57.08.016	AMD	162	2
57.16.090	AMD	202	53
57.20.135	AMD	162	11
57.24.010	AMD	162	14
57.40	ADD	162	4
58.17	ADD	168	12
58.28.490	AMD	202	54
59	ADD	237	1–6
59.12.200	AMD	202	55
59.18	ADD	150	11
59.18.130	AMD	150	2
59.18.180	AMD	150	7
59.18.390	AMD	150	3
59.18.400	AMD	150	4
59.20	ADD	150	12
59.20.080	AMD	150	5
59.20.140	AMD	150	6
59.20.190	AMD	126	1
59.22	ADD	280	2,4,5
59.22.020	AMD	280	3
60.04	ADD	270	1,2
	(Effective 7/1/89)		
60.68	ADD	73	1–7
	(Effective 7/1/88)		
60.68.010	REP	73	8
	(Effective 7/1/88)		
60.68.020	REP	73	8
	(Effective 7/1/88)		
60.68.030	REP	73	8
	(Effective 7/1/88)		
60.68.040	REP	73	8
	(Effective 7/1/88)		
60.68.050	REP	73	8
	(Effective 7/1/88)		
61	ADD	33	1–4
61.12.090	AMD	231	36
61.30.010	AMD	86	1
61.30.020	AMD	86	2
61.30.030	AMD	86	3
61.30.040	AMD	86	4
61.30.050	AMD	86	5
61.30.060	AMD	86	6
61.30.070	AMD	86	7
61.30.080	AMD	86	8
61.30.090	AMD	86	9
61.30.100	AMD	86	10
61.30.110	AMD	86	11
61.30.120	AMD	86	12
61.30.130	AMD	86	13
61.30.140	AMD	86	14
61.30.150	AMD	86	15
63	ADD	226	3–7
63.14.135	AMD	72	1
63.24.160	AMD	226	1
63.29	ADD	240	21

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63.29.020	AMD	226	2
63.32.010	AMD	132	1
63.32.010	AMD	223	3
63.32.020	AMD	132	2
63.40.010	AMD	132	3
63.40.010	AMD	223	4
63.40.020	AMD	132	4
64.04.180	AMD	16	1
64.04.190	AMD	16	2
64.08.050	AMD	69	1
64.08.060	AMD	69	2
64.08.070	AMD	69	3
64.28.020	AMD	29	10
64.32.200	AMD	192	2
65.12.175	AMD	202	56
66.08	ADD	229	3
	(Effective 7/1/89)		
66.08.190	AMD	229	4
	(Effective 7/1/89)		
66.16.080	AMD	101	1
66.24	ADD	200	4
66.24.010	AMD	200	1
66.24.125	REP	50	2
66.24.215	AMD	257	7
66.24.380	AMD	200	2
66.24.500	AMD	200	3
66.28	ADD	50	1
66.44	ADD	148	3
66.44.350	AMD	160	1
67.08.001	AMD	19	1
67.08.060	AMD	19	2
67.08.140	AMD	19	3
67.20.010	AMD	82	7
67.28	ADD	1 E1	20–22
67.28	ADD	61	2
	(Effective 7/1/88)		
67.28.200	AMD	1 E1	23
67.28.210	AMD	1 E1	24
67.34.011	REP	186	19
	(Effective 6/30/94)		
67.34.021	REP	186	19
	(Effective 6/30/94)		
67.40	ADD	1 E1	8
67.40	ADD	61	3
	(Effective 7/1/88)		
67.40.020	AMD	1 E1	1
67.40.025	AMD	1 E1	2
67.40.030	AMD	1 E1	3
67.40.040	AMD	1 E1	4
67.40.055	AMD	1 E1	5
67.40.090	AMD	1 E1	6
67.40.100	AMD	1 E1	25
67.70.040	AMD	289	801
67.70.190	AMD	289	802
69	ADD	147	1–10
69.04.930	AMD	254	8
69.07	ADD	254	9
69.07.040	AMD	5	1
69.07.050	AMD	5	2
69.07.100	AMD	5	4
69.08.045	AMD	5	5
69.12.010	REP	5	6
69.12.020	REP	5	6
69.12.030	REP	5	6
69.12.040	REP	5	6
69.12.050	REP	5	6
69.12.060	REP	5	6
69.12.070	REP	5	6
69.12.080	REP	5	6
69.12.110	REP	5	6
69.12.120	REP	5	6
69.16.010	REP	5	7
69.16.015	REP	5	7
69.16.020	REP	5	7
69.16.021	REP	5	7
69.16.022	REP	5	7
69.16.023	REP	5	7
69.16.030	REP	5	7
69.16.040	REP	5	7
69.16.050	REP	5	7
69.16.060	REP	5	7
69.16.070	REP	5	7
69.16.080	REP	5	7
69.16.090	REP	5	7
69.16.100	REP	5	7
69.16.110	REP	5	7
69.16.115	REP	5	7
69.16.120	REP	5	7
69.16.130	REP	5	7
69.16.160	REP	5	7
69.16.170	REP	5	7
69.16.900	REP	5	7
69.20.005	REP	5	8
69.20.007	REP	5	8
69.20.010	REP	5	8
69.20.011	REP	5	8
69.20.012	REP	5	8
69.20.013	REP	5	8
69.20.014	REP	5	8
69.20.020	REP	5	8
69.20.030	REP	5	8
69.20.040	REP	5	8
69.20.050	REP	5	8
69.20.060	REP	5	8
69.20.070	REP	5	8
69.20.080	REP	5	8
69.20.090	REP	5	8
69.20.110	REP	5	8
69.20.120	REP	5	8
69.20.150	REP	5	8
69.20.900	REP	5	8
69.38.030	AMD	197	1

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69.41	ADD	148		4
69.41	ADD	150		8
69.50	ADD	148		5
69.50	ADD	150		9
69.50.505	AMD	282		2
69.52	ADD	148		6
69.52	ADD	150		10
69.53.010	AMD	150		13
69.53.020	AMD	150		14
69.54.040	AMD	193		1
70	ADD	2	*E3	1–25
70	ADD	112		1–25
	(Effective 3/1/89)			
70	ADD	177		1–8
70	ADD	245		1–28
	(Effective 7/1/89)			
70	ADD	276		1–4
70.14	ADD	207		3
70.14.010	REP	107		35
	(Effective 10/1/88)			
70.24	ADD	206		918–920
70.24	ADD	206		917
	(Effective 7/1/88)			
70.24	ADD	206		901, 904–906, 909,910, 914,915
70.24	ADD	206		701–707, 709,801
70.24	ADD	206		602–608
70.24	ADD	206		101,201, 202
70.24.010	REP	206		921
70.24.020	REP	206		921
70.24.030	REP	206		921
70.24.040	REP	206		921
70.24.050	AMD	206		907
70.24.060	REP	206		921
70.24.070	AMD	206		908
70.24.080	AMD	206		911
70.24.110	AMD	206		912
70.24.120	AMD	206		913
70.38.025	AMD	20		1
70.39	ADD	262		1
70.39.140	AMD	118		1
70.54	ADD	276		5
	(Effective 12/31/89)			
70.58.107	AMD	40		1
70.74	ADD	198		3,4, 9–11,15,16
70.74.030	AMD	198		1
70.74.061	AMD	198		2
70.74.110	AMD	198		5
70.74.120	AMD	198		6
70.74.130	AMD	198		7
70.74.135	AMD	198		8
70.74.137	AMD	198		12
70.74.140	AMD	198		13
70.74.142	AMD	198		14
70.74.220	REP	198		17
70.74.290	REP	198		17
70.77.495	AMD	128		11
70.79.090	AMD	254		20
70.84	ADD	89		2
70.84	ADD	89		1
70.94	ADD	2	*E3	28
70.94	ADD	112		28
	(Effective 3/1/89)			
70.94.331	REMD	106		1
70.94.487	REP	186		16
	(Effective 6/30/88)			
70.95	ADD	175		3
	(Effective 7/1/88)			
70.95	ADD	184		1–5
70.95	ADD	250		3–6
70.95.160	AMD	127		29
70.95.180	AMD	127		30
70.95.530	AMD	250		1
70.96A.040	AMD	193		2
70.105	ADD	2	*E3	29
70.105	ADD	112		29
	(Effective 3/1/89)			
70.105.020	AMD	36		28
70.105A.010	REP	2	*E3	63
70.105A.010	REP	112		63
	(Effective 3/1/89)			
70.105A.020	REP	2	*E3	63
70.105A.020	REP	112		63
	(Effective 3/1/89)			
70.105A.030	REP	2	*E3	63
70.105A.030	REP	112		63
	(Effective 3/1/89)			
70.105A.040	REP	2	*E3	63
70.105A.040	REP	112		63
	(Effective 3/1/89)			
70.105A.050	REP	2	*E3	63
70.105A.050	REP	112		63
	(Effective 3/1/89)			
70.105A.060	REP	2	*E3	63
70.105A.060	REP	112		63
	(Effective 3/1/89)			
70.105A.070	REP	2	*E3	63
70.105A.070	REP	112		63
	(Effective 3/1/89)			
70.105A.080	REP	2	*E3	63
70.105A.080	REP	112		63
	(Effective 3/1/89)			
70.105A.090	REP	2	*E3	63
70.105A.090	REP	112		63
	(Effective 3/1/89)			
70.105A.900	REP	2	*E3	63

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70.105A.900	REP	112	63
	(Effective 3/1/89)		
70.105A.905	REP	2 *E3	63
70.105A.905	REP	112	63
	(Effective 3/1/89)		
70.125.030	AMD	145	19
	(Effective 7/1/88)		
70.126	ADD	245	30
	(Effective 7/1/89)		
70.126.010	AMD	245	29
	(Effective 7/1/89)		
70.126.040	REP	245	34
	(Effective 7/1/89)		
70.126.050	REP	245	34
	(Effective 7/1/89)		
71.20.010	REP	176	1005
71.20.016	REP	176	1005
71.20.020	REP	176	1005
71.20.030	REP	176	1005
71.20.040	REP	176	1005
71.20.050	REP	176	1005
71.20.060	REP	176	1005
71.20.070	REP	176	1005
71.20.075	REP	176	1005
71.20.080	REP	176	1005
71.20.090	REP	176	1005
71.20.110	AMD	176	910
71.28.010	AMD	176	911
71.30.010	REP	176	1006
71.30.020	REP	176	1006
71.30.030	REP	176	1006
72.01.050	REMD	143	1
72.02	ADD	143	2,3
72.02.050	REP	143	16
72.02.100	AMD	143	5
72.02.110	AMD	143	6
72.08.010	REP	143	17
72.08.020	REP	143	17
72.08.040	REP	143	17
72.08.045	REP	143	17
72.08.050	REP	143	17
72.08.080	REP	143	17
72.08.090	REP	143	17
72.08.101	REP	143	17
72.08.102	REP	143	17
72.08.103	REP	143	17
72.08.120	REP	143	17
72.08.130	REP	143	17
72.08.160	REP	143	17
72.08.380	RECD	143	15
72.08.380	AMD	143	13
72.09	ADD	153	6,10
	(Effective 7/1/88)		
72.09.020	AMD	153	7
	(Effective 7/1/88)		
72.09.240	AMD	149	1
72.09.250	REP	149	2
72.12.010	REP	143	18
72.12.020	REP	143	18
72.12.040	REP	143	18
72.12.070	REP	143	18
72.12.090	REP	143	18
72.12.100	REP	143	18
72.12.140	REP	143	18
72.12.160	RECD	143	15
72.12.160	AMD	143	4
72.13.001	REP	143	19
72.13.010	REP	143	19
72.13.040	REP	143	19
72.13.050	REP	143	19
72.13.060	REP	143	19
72.13.080	REP	143	19
72.13.091	REP	143	19
72.13.100	REP	143	19
72.13.110	RECD	143	15
72.13.110	AMD	143	7
72.13.120	RECD	143	15
72.13.120	AMD	143	8
72.13.130	RECD	143	15
72.13.130	AMD	143	9
72.13.140	RECD	143	15
72.13.140	AMD	143	10
72.13.150	RECD	143	15
72.13.150	AMD	143	11
72.13.160	RECD	143	15
72.13.160	AMD	143	12
72.13.170	REP	143	19
72.15.010	REP	143	20
72.15.020	REP	143	20
72.15.030	REP	143	20
72.15.040	REP	143	20
72.15.050	REP	143	20
72.15.060	RECD	143	15
72.15.070	REP	143	20
72.30.010	REP	176	1006
72.30.020	REP	176	1006
72.30.030	REP	176	1006
72.30.040	REP	176	1006
72.30.050	REP	176	1006
72.33.010	REP	176	1007
72.33.020	REP	176	1007
72.33.030	REP	176	1007
72.33.040	REP	176	1007
72.33.050	REP	176	1007
72.33.070	REP	176	1007
72.33.080	REP	176	1007
72.33.090	REP	176	1007
72.33.100	REP	176	1007
72.33.110	REP	176	1007
72.33.125	REP	176	1007
72.33.130	REP	176	1007
72.33.140	REP	176	1007

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72.33.150	REP	176	1007
72.33.161	REP	176	1007
72.33.165	REP	176	1007
72.33.170	REP	176	1007
72.33.180	REP	176	1007
72.33.190	REP	176	1007
72.33.200	REP	176	1007
72.33.210	REP	176	1007
72.33.220	REP	176	1007
72.33.230	REP	176	1007
72.33.240	REP	176	1007
72.33.260	REP	176	1007
72.33.500	REP	176	1007
72.33.510	REP	176	1007
72.33.520	REP	176	1007
72.33.530	REP	176	1007
72.33.540	REP	176	1007
72.33.550	REP	176	1007
72.33.560	REP	176	1007
72.33.570	REP	176	1007
72.33.580	REP	176	1007
72.33.590	REP	176	1007
72.33.800	REP	176	1007
72.33.805	REP	176	1007
72.33.810	REP	176	1007
72.33.815	REP	176	1007
72.33.820	REP	176	1007
72.33.830	REP	176	1007
72.33.840	REP	176	1007
72.33.850	REP	176	1007
72.33.860	REP	176	1007
72.33.900	REP	176	1007
72.63.020	AMD	36	29
72.63.030	AMD	36	30
74.08.080	AMD	202	58
74.12	ADD	170	2
74.13	ADD	213	1–3
74.15.020	AMD	176	912
74.15.030	REMD	189	3
74.20A.030	AMD	176	913
74.20A.030	AMD	275	20
	(Effective 7/1/88)		
74.20A.055	AMD	275	10
	(Effective 7/1/88)		
74.20A.160	AMD	275	11
	(Effective 7/1/88)		
74.20.270	REP	275	21
	(Effective 7/1/88)		
74.20.330	AMD	275	19
	(Effective 7/1/88)		
74.21	ADD	43	1
74.21.020	AMD	43	2
74.21.060	AMD	43	3
74.21.140	AMD	43	4
74.21.904	AMD	43	5
74.38.070	AMD	44	1
74.46.360	AMD	208	1
74.46.360	AMD	221	1
74.46.430	AMD	1 *E2	2
74.50.010	AMD	163	1
74.50.030	AMD	163	2
74.50.050	AMD	163	3
74.50.060	AMD	163	4
75.08.020	AMD	36	31
75.08.245	AMD	115	1
75.20.050	AMD	36	32
75.20.100	AMD	36	33
75.20.100	AMD	272	1
75.20.103	AMD	36	34
75.20.103	AMD	272	2
75.20.106	AMD	36	35
75.20.110	AMD	36	36
75.20.130	AMD	36	37
75.20.130	AMD	272	3
75.20.300	AMD	36	38
75.20.310	AMD	36	39
75.28.095	AMD	9	1
75.48.120	AMD	36	40
75.52.010	AMD	36	41
75.52.020	AMD	36	42
75.58.010	AMD	36	43
75.58.030	AMD	36	44
75.58.040	AMD	36	45
76.01.010	AMD	128	12
76.01.040	AMD	128	13
76.01.050	AMD	128	14
76.04	ADD	273	2
76.04.610	AMD	273	3
76.04.750	AMD	273	4
76.06.020	AMD	128	15
76.06.030	AMD	128	16
76.06.050	AMD	128	17
76.06.060	AMD	128	18
76.06.070	AMD	128	19
76.06.080	AMD	128	20
76.06.090	AMD	128	21
76.09.040	AMD	36	46
76.09.050	AMD	36	47
76.09.180	AMD	36	48
76.12	ADD	128	22
76.12.020	AMD	128	23
76.12.030	AMD	128	24
76.12.040	AMD	128	25
76.12.045	AMD	128	26
76.12.070	AMD	128	27
76.12.080	AMD	128	28
76.12.085	DECD	128	77
76.12.090	AMD	128	29
76.12.100	AMD	128	30
76.12.110	AMD	128	31
76.12.120	AMD	70	1
76.12.120	AMD	128	32

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76.12.140	AMD	128	33
76.12.155	AMD	128	34
76.12.160	AMD	128	35
76.12.170	AMD	128	36
76.14.010	AMD	128	37
76.14.030	AMD	128	38
76.14.040	AMD	128	39
76.14.050	AMD	128	40
76.14.060	AMD	128	41
76.14.070	AMD	128	42
76.14.080	AMD	128	43
76.14.090	AMD	128	44
76.14.100	AMD	128	45
76.14.110	AMD	128	46
76.36.130	AMD	128	47
76.36.140	AMD	128	48
76.44.020	AMD	81	21
76.44.022	REP	81	22
76.48.040	AMD	36	49
77.12.055	AMD	36	50
77.16	ADD	265	1,2
	(Effective 7/1/88)		
77.16.170	AMD	36	51
77.21.010	REMD	265	3
	(Effective 7/1/88)		
77.32	ADD	263	9
77.32.230	AMD	176	914
77.32.380	AMD	36	52
78.06.030	AMD	127	31
78.40.250	AMD	127	32
78.52.020	AMD	128	49
79.01.040	DECD	128	77
79.01.048	AMD	128	50
79.01.052	AMD	128	51
79.01.068	AMD	128	52
79.01.072	AMD	128	53
79.01.094	AMD	128	54
79.01.132	AMD	136	2
79.01.152	AMD	128	55
79.01.184	AMD	136	3
79.01.200	AMD	136	1
79.01.500	AMD	128	56
79.01.500	AMD	202	59
79.01.708	AMD	128	57
79.01.712	AMD	128	58
79.01.900	DECD	128	77
79.08.080	AMD	127	33
79.08.100	AMD	127	34
79.08.104	AMD	128	59
79.08.106	AMD	128	60
79.08.108	AMD	128	61
79.12	ADD	70	3
79.12	ADD	209	1,2
79.24.030	AMD	128	62
79.28.010	AMD	128	63
79.28.020	AMD	128	64
79.36.290	AMD	128	65
79.40.070	AMD	128	66
79.60.010	AMD	128	67
79.60.020	AMD	128	68
79.60.030	AMD	128	69
79.60.040	AMD	128	70
79.60.050	AMD	128	71
79.60.060	AMD	128	72
79.60.080	AMD	128	73
79.60.090	AMD	128	74
79.64.030	AMD	70	4
79.66.080	AMD	36	53
79.70.030	AMD	36	54
79.70.070	AMD	36	55
79.70.080	AMD	36	56
79.72.020	AMD	36	57
79.72.070	AMD	36	58
79.72.100	AMD	36	59
79.90	ADD	124	9
79.94.340	REP	75	19
	(Effective 1/1/89)		
79.94.350	REP	75	19
	(Effective 1/1/89)		
79.94.360	REP	75	19
	(Effective 1/1/89)		
79.94.370	REP	75	19
	(Effective 1/1/89)		
79.94.380	REP	75	19
	(Effective 1/1/89)		
80.04.190	AMD	202	60
80.04.260	AMD	202	61
80.28	ADD	166	1,2
80.36	ADD	91	1-3
80.36	ADD	123	2
80.40.040	AMD	127	35
80.50.030	AMD	36	60
80.50.140	AMD	202	62
81.04.190	AMD	202	63
81.04.260	AMD	202	64
81.53.130	AMD	202	65
81.53.170	AMD	202	66
81.70	ADD	30	2-15
81.70.020	AMD	30	1
81.70.040	REP	30	16
81.70.050	REP	30	16
81.70.060	REP	30	16
81.70.070	REP	30	16
81.70.080	REP	30	16
81.70.090	REP	30	16
81.70.095	REP	30	16
81.70.100	REP	30	16
81.70.110	REP	30	16
81.70.120	REP	30	16
81.70.130	REP	30	16
81.70.140	REP	30	16
81.70.150	REP	30	16

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81.70.160	REP	30	16
81.70.170	REP	30	16
81.70.180	REP	30	16
81.70.190	REP	30	16
81.70.200	REP	30	16
81.70.210	REP	30	16
81.70.900	REP	30	16
81.70.910	REP	30	16
81.80	ADD	31	2
81.80	ADD	138	1
81.80.010	AMD	31	1
81.80.345	AMD	58	1
82	ADD	2 *E3	44–48
	(Effective 1/1/88)		
82	ADD	112	44–48
	(Effective 1/1/88–3/1/89)		
82.02.020	AMD	179	6
82.03.070	AMD	222	2
82.03.120	AMD	222	3
82.03.140	AMD	222	4
82.03.150	AMD	222	5
82.03.160	AMD	222	6
82.03.170	AMD	222	7
82.04	ADD	107	33
82.04.050	REMD	253	1
82.04.330	AMD	253	2
82.04.340	AMD	19	4
82.04.385	AMD	13	1
82.04.385	AMD	176	915
82.04.440	AMD	3 *E2	2
82.04.4297	AMD	67	1
82.08	ADD	61	1
	(Effective 7/1/88)		
82.08	ADD	68	1
82.08.0273	AMD	96	1
	(Effective 7/1/89)		
82.08.0293	AMD	103	1
	(Effective 6/1/88)		
82.12	ADD	68	2
82.12.0293	AMD	103	2
	(Effective 6/1/88)		
82.16	ADD	228	1
	(Effective 1/1/89)		
82.22	ADD	112	69
82.27.070	AMD	36	61
82.32.180	AMD	202	67
82.32.240	AMD	64	21
82.34.010	AMD	127	36
82.34.100	AMD	127	37
82.38.020	AMD	122	1
82.38.110	AMD	122	2
82.38.140	AMD	51	1
82.38.150	AMD	23	1
	(Effective 1/1/89)		
82.44.020	REMD	191	1
82.44.150	REMD	18	1
82.45.100	AMD	286	5
82.49.070	AMD	261	1
82.60.020	AMD	42	16
82.60.050	AMD	41	5
82.61.010	AMD	41	1
82.61.040	AMD	41	2
82.61.070	AMD	41	3
82.62.010	AMD	42	17
82.62.040	AMD	41	4
83.100	ADD	64	5,15–19
83.100.010	AMD	64	1
83.100.020	AMD	64	2
83.100.030	AMD	64	3
83.100.040	AMD	64	4
83.100.050	AMD	64	6
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HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

(SUPPLEMENTING 1987 LAWS, PAGE 2960)

INITIATIVES TO THE PEOPLE

INITIATIVE MEASURE NO. 496 (**Shall certain excise taxes imposed in lieu of property taxes be limited to one percent of true and fair value?**)—Filed on January 5, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 497 (**Shall constitutional impact statements reflecting constitutional compliance or noncompliance be required to accompany all bills introduced in the state legislature?**)—Filed on January 5, 1987 by John A. Klima of Issaquah. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 498 (**Shall approval by two-thirds of a governing body be required for new taxes, tax rate increases, or tax base enlargement?**)—Filed on January 9, 1987 by D.E. Jewett of Langley. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 499 (**Shall maximum tax rates on real and personal property be reduced and a new maximum include voter approved tax levies?**)—Filed on January 23, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 500 (**Shall a transaction tax, not to exceed 1% on transfers of money or property replace present state and local taxes?**)—Filed on January 20, 1987 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 501 (**Shall the statutory maximum tax per gallon on motor vehicle fuels be reduced to a 15 cents per gallon maximum?**)—Filed on January 28, 1987 by Cecil F. Herman of Olympia. Sponsored failed to submit signatures for checking.

INITIATIVE MEASURE NO. 502 (**Shall the state law which requires the driver and passengers of a motor vehicle to use safety belts be repealed?**)—Filed on February 9, 1987 by Donald T. Adsitt of Kennewick. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 503 (**Shall motor vehicle owners and operators be required to maintain vehicle liability insurance and submit proof thereof to license vehicles?**)—Filed on February 13, 1987 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 504 (**Shall individuals' net worth be taxed except for current bonded indebtedness be eliminated, and other taxes be reduced?**)—Filed on March 17, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 505 (**Shall individuals' and trusts' net worth be taxed, not property except for current bonded indebtedness, and other taxes be reduced?**)—Filed on March 27, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 506 (**Shall the State conduct a March presidential preference primary for major political party candidates and certain election statutes be changed?**)—Filed on May 12, 1987 by Eddie Rye, Jr. of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVES TO THE LEGISLATURE

(SUPPLEMENTING 1987 LAWS, PAGE 2968)

INITIATIVE TO THE LEGISLATURE NO. 95 (**Shall denturists be licensed, dental hygenists' activities be expanded, and both be permitted to function without supervision of a dentist?**)—Filed on April 17, 1987 by Kenneth S. MacPherson of Redmond. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 96 (**Cleanup of Toxic Waste**)—Filed on July 16, 1987 by David A. Bricklin of Seattle. Initiative refiled as Initiative 97.

INITIATIVE TO THE LEGISLATURE NO. 97 (**Shall a hazardous waste cleanup program, partially funded by a 7/10 of 1% tax on hazardous substances, be enacted?**)—Filed on August 13, 1987 by Christine Platt of Olympia. 215,505 signatures were submitted and were found sufficient. The measure was certified to the legislature on February 8, 1988.

REFERENDUM MEASURES

(SUPPLEMENTING 1987 LAWS, PAGE 2973)

REFERENDUM MEASURE NO. 43 **(Second Substitute House Bill No. 758)**—Attorney General refused to write a ballot title because the Governor had not yet signed the bill. Filing of the referendum petition was premature.

REFERENDUM MEASURE NO. 44 **(Chapter 506, Laws of 1987, Shall the director of the Department of Wildlife (formerly Game) be appointed by the Governor, not by the State Wildlife Commission?)**—Filed May 20, 1987 by Ted Cowan of Issaquah. No signatures presented for checking.

REFERENDUM MEASURE NO. 45 **(Chapter 1, Laws of 1987, First Extraordinary Session, Shall the salary increases, established by the constitutionally created Citizens' Commission, for state elected officials, legislators and judges be approved?)**—Filed June 5, 1987 by Ed Phillips of Mossyrock. No signatures presented for checking.